

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own)	
motion, to promulgate rules governing)	
the billing of residential and nonresidential electric)	Case No. U-18120
and natural gas service.)	
_____)	

At the April 28, 2017 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER

On June 2 and 4, 2014, respectively, the Commission sought permission from the Office of Regulatory Reinvention (ORR), now the Office of Performance and Transformation (OPT), to amend and combine two rule sets: Billing Practices Applicable to Non-Residential Electric and Gas Customers, Mich Admin Code, R 460.1601-460.1640, and Consumer Standards and Billing Practices for Electrical and Gas Residential Service, Mich Admin Code, R 460.101-460.169. ORR approved these requests on July 11, 2014, ORR# 2014-038 LR and ORR# 2014-037. The Commission then submitted the draft rules to ORR and the Legislative Service Bureau (LSB) for informal approvals, which were granted on December 14 and 21, 2015, respectively. The Regulatory Impact Statement for both rule sets was submitted to ORR on June 9, 2016, and approved on June 16, 2016.

On July 22, 2016, the Commission issued an order providing the public with an opportunity to comment on the proposed rules, and a public hearing was held on September 22, 2016. Thirty-five people made comments at the hearing. In addition, the Commission provided for written comments to be filed by October 13, 2016. Approximately 247 parties filed written comments. This order addresses in detail only those comments that are germane to the rules, adopts minor changes to the rules, and approves the rules for submission to OPT and LSB for formal approval.

Comments and Discussion

Commenters at the public hearing brought up a long list of issues not germane to the billing rules and beyond the scope of the proposed draft rule set. These issues include: utility costs and fees regarding relocation of poles and other electric utility infrastructure; utility rates; alleged health effects from the use of advanced metering infrastructure (AMI); privacy concerns related to utility use of AMI; customer choice of utility metering equipment; disclosure of information regarding metering equipment; the accuracy of utility metering equipment; complaints regarding the limitations or requirements of utility AMI opt-out programs; complaints regarding the installation of AMI meters at a particular residence; and the Commission's underlying purpose or mission. As noted, these issues have nothing to do with the subject matter of the draft rules proposed in this docket. However, many of the issues pertaining to AMI have been and continue to be considered in various other proceedings before the Commission and Michigan courts. Accordingly, these comments will not be considered or discussed here.

A discussion of comments made at the public hearing relevant to the proposed rules follows. Richard Meltzer comments that the proposed rules need to assess sufficiently severe penalties to curtail arbitrary and abusive behavior by utility companies. Similarly, Michelle Rison comments that there is nothing in the proposed rules for when utilities violate the rules or fail to provide

customers safe service. The Commission notes that both the current and the proposed rules provide for penalties. R 460.169(2), which has been renumbered and moved to the front of the proposed rules as proposed R 460.101a(2), permits the assessment of damages and fines for regulated utilities determined by the Commission to be in violation of these rules. The Commission has, quite recently, exercised its authority and assessed fines on regulated utilities that it determined had violated the Commission's Consumer Standards and Billing Practices for Electrical and Gas Residential Service.

Jeanine Deal comments that the use of the phrase "extraordinary effort" when defining "aggregate data" in proposed rule R 460.102(b) Definitions; A to F is vague. The Commission disagrees that the phrase is vague within the context of that definition and does not see the need to revise the definition at this time. Linda Kurtz comments that "aggregate data", though defined in the rules, is not used anywhere else in the proposed rules and should therefore be stricken. Ms. Kurtz is incorrect on this point. The phrase "aggregate data" appears in proposed rule R 460.153(h) on customer access to consumption data and confidentiality. Therefore, its definition will not be stricken from the proposed rules.

James Ault provided written comments on behalf of the Michigan Electric and Gas Association (MEGA), a trade association of investor-owned public utilities. Mr. Ault requests that the rules be reviewed and clarified so that the type of customer (i.e., residential, small commercial, large commercial) is delineated in the text of the rule when a catchline heading specifies a certain class of customer. Mr. Ault is correct in his observation that both the Legislative Service Bureau's Manual of Style and Procedures as well as state law regarding statutory construction, MCL 8.4b, make it clear that a catchline is not a part of the rule or section and may not be used to construe a section or rule. Accordingly, MEGA's recommendation requesting clarification within the text of

the rules regarding the type of customer the rules refer to has been incorporated in these proposed rules as detailed in the summary of changes at the end of this order.

MEGA further requests that the rules be amended to define the term “customer hearing” used in the following proposed rules: R 460.102(h), R 460.102a(e) and R 460.155. MEGA is correct that this term has not been defined and the Commission agrees that the rules would benefit from adding a definition. The proposed rules have therefore been amended to include a definition of this term.

MEGA next proposes a change in the definitions of “gas cost recovery” and “power supply cost recovery” in proposed rules R 460.102(a) and R 460.102a(p) respectively. The purpose of defining terms in these rules is to explain their meaning as used in these rules and not elsewhere. These definitions are easily understood, have been in existence for years, and have worked well. Accordingly, these definitions will not be amended as MEGA recommends in its comment.

MEGA next recommends that the definition of “peak season” found in proposed rule R 460.102a(n) be changed. After reviewing the definition that MEGA proposes, it is clear that MEGA’s proposed definition does little to solve the issue it identifies, because its version of the definition also uses the word “period” in a somewhat amorphous way. The definition of “peak season” was the subject of much discussion among stakeholders during the collaborative on these rules and was considered to be the best workable definition at the time. For lack of a better alternative, the definition will remain as proposed in the rules provided during the public hearing.

Ms. Kurtz expresses her disagreement with the provision of proposed rule R 460.102(c)(viii) which defines what constitutes a billing error. She comments that not including an estimated meter reading as a billing error lets utilities continue a tradition of failing to read customers’ meters regularly and slamming them with huge charges and demands that they pay in an unreasonable amount of time. Billing errors are different from estimated meter reads and should

not be confused. The Commission has a rule that regulates utilities' estimated meter reading practices. *See*, Mich Admin Code, R 460.113. The Commission has enforced violations of this rule and assessed penalties in the past. The Commission is satisfied that this rule and the proposed changes to it will continue to safeguard customers against improper estimated meter reading practices.

Jaime Chimner, Jay Bowers, and Ms. Rison comment that the Commission omitted the "discrimination rule," possibly referring to current rule Mich Admin Code, R 460.103. The Commission did not omit this rule. The draft rule set provided at the public hearing did not include rules that were not being renumbered or changed. Thus, rules within the Consumer Standards and Billing Practices for Electrical and Gas Residential Service that remain unchanged and were not renumbered were not included in the proposed draft handed out at the public hearing on September 22, 2016. R 460.103 will remain identical and therefore was omitted from the draft of changes. The Commission, in this rulemaking, did not eliminate any billing rules that prohibit discrimination.

MEGA next asserts that market interest rates have declined to levels well below 5% and therefore that the Commission should change its use of a fixed interest rate in these rules to a practice of using the applicable rate based on the market index. The Commission, in this rulemaking, reduced the fixed interest rate from a uniform 7% to a uniform 5% for deposits and refunds. The Commission is not inclined to switch from a fixed interest rate of 5% to a market index rate at this time despite MEGA's arguments to the contrary. The Federal Reserve just increased interest rates for the first time in a decade, so interest rates are currently rising. In addition, besides compensating for the use of money, the fixed interest rate at issue here serves an additional purpose, and that is to discourage regulated utilities from overzealously requiring

customer deposits as well as to discourage the kind of errors that result in a customer refund.

Therefore, the Commission is satisfied that its proposed reduction to the fixed interest rate is an appropriate response that adequately addresses this issue.

Ms. Deal comments that it was unreasonable to reduce the percentage rate for interest a utility must pay customers with regard to customer deposits from 7% to 5% as set forth in proposed rules R 460.111 and R 460.111a. Ms. Deal makes the same argument with respect to the change of the interest rate from 7% to 5% in the rule on billing errors, proposed rule R 460.126a. This lower interest rate represents a compromise between those utility stakeholders assisting with the rule revision and the Commission Staff who participated in the workgroup. The utilities recommended that the Commission use a much lower variable interest rate based on the market index rate rather than a fixed percentage in the rules, which would have been a considerably greater reduction in the proposed interest rate. They likewise argued that 7% interest seemed to be more of a penalty than a rate that compensates customers for the use of their deposit. The Commission concluded that a 5% interest rate serves a dual purpose of both compensating customers for the use of their deposit money and also discouraging utilities from either requesting deposits from customers when it is not necessary or making billing errors.

Kathy Johnson questions why the current rule R 460.113 pertaining to actual and estimated meter reading was being stricken from the proposed rules. This rule has not been stricken and remains a part of the proposed rules. It was revised to better explain when a utility may estimate a meter reading and to ensure that customers were not paying an unfair rate due to a utility's estimated meter reading practices. This proposed revised rule provides more customer protection than before. Ms. Johnson also asks why the proposed R 460.113(3)(d)(iii) gives utilities the ability to install a remote meter. Similarly, Lola Killey comments that this provision does not prevent

utilities from installing AMI when a meter reader's safety is at risk. She also comments that the rule does not define "at risk" and that this term needs to be clearly defined. Although regulated utilities do have the ability to install AMI meters, this rule neither grants that authority nor curtails it. Instead, it directs regulated utilities to notify customers of certain information when a meter reader's safety is at risk and its purpose is to provide for greater utility communication with the customer. The Commission further concludes that the phrase "at risk" needs no special definition in the rules and is accorded its common dictionary definition.

Ms. Killey further comments that R 460.113(4) leaves open the possibility that a utility may repair or replace meter reading equipment that has failed with an AMI meter. The purpose of this rule is to require regulated utilities to fix failing meter reading equipment so that a customer does not receive multiple estimated meter reads. The rule protects customers because it demonstrates the Commission's preference for accurate meter reads over less-accurate estimated meter reads and implies that the Commission prefers that customers be billed for the utility service they actually use.

Michigan House Representative Gary Glenn and Ms. Kurtz comment that a provision should be added to proposed rule R 460.113 that provides that a utility may not make more than two consecutive estimated reads per customer per year. Rule 460.113 requires utilities to provide customers with an actual meter reading each billing month. *See*, proposed R 460.113(1). Under proposed R 460.113, the Commission lists those few exceptions where a utility may estimate a meter reading, and further provides that a utility may only estimate customer bills where the Commission finds the utility's estimated bill procedures assure reasonable billing accuracy. Thus, there are only a few exceptions to the Commission's general rule mandating actual meter readings every billing month. In addition, the Commission's Service Quality and Reliability Standards

require electric utilities to maintain a meter reading factor of 85% or more. *See*, Mich Admin Code, R 460.724(d). This demonstrates the Commission's clear preference for actual over estimated meter readings. Further, the Commission expects the number of estimated meter reads to fall drastically given the installation of AMI meters throughout Michigan. Thus, to a large extent, this rule regulating estimated meter reads was more relevant in the past when utilities used traditional analog metering equipment. For those few customers who opt out of AMI, there could potentially be circumstances where a utility faces difficulties in obtaining an actual read (inclement weather, dangerous dog on the property, locked gates, etc.). Accordingly, the Commission is reluctant to provide additional limits to estimated reads which may prove impractical or unattainable. Given the fact that the Commission has already limited those circumstances where a utility may estimate a read, has penalized utilities for violating its estimated meter reading rule in the past, and given that AMI will drastically reduce the number of estimated reads, the Commission concludes that further rulemaking limiting the exact number of estimated reads per year is unnecessary at this time.

Regarding proposed rule R 460.113(3), Representative Glenn and Ms. Kurtz recommend that language be added to subrule (3)(a) stating that the utility must provide written notice to customers of their option to read their own meter. Subrule (3)(a) pertains to estimated meter reads where an actual read cannot be obtained, including a customer reading his or her own meter. Under the circumstance described in (3)(a), a customer cannot obtain an actual read, so notification that the customer may read their own meter would not work in this particular subrule. Similarly, under subrule 3(b), there is an equipment failure so that customer usage data cannot be retrieved. Again, under this circumstance, a customer would be unable to obtain an actual meter reading. In response to these comments, however, and upon further review of the rule, proposed rule

R 460.113 has been edited to incorporate the recommendation that the utility notify the customer of the customer's option to read the meter where an estimated meter reading is required because the utility is denied access to the meter or the meter reader's safety is at risk. In addition, for ease of reference, all of the reasons a utility may estimate a meter reading have been placed under a single subrule, subrule (3), including where a utility bills a customer seasonally.

Representative Glenn and Ms. Kurtz further request that the customer should receive information regarding the nature of the impediment to an actual reading. Again, the Commission expects estimated meter readings will become less prevalent after the completion of AMI installation in 2017. The Commission also finds it burdensome for the utility, in all instances, to inform the customer of the reason for the estimated reading, particularly where the estimated reading is due to reasons outside of the customer's control. Nevertheless, in response to these comments, proposed rule R 460.113 has been edited to require the utility to notify the customer of the reason for the estimated reading in those circumstances where the utility is denied access to the meter or the meter reader's safety is at risk.

Bill and Melinda West, as well as a Brandon [no last name given] from Kalamazoo comment that the rules do not provide for a customer to provide his or her own meter reading. They are incorrect. Proposed rule R 460.114 provides, among other things, that "[a] utility shall provide residential and small nonresidential customers with the opportunity to read and report energy usage...." This rule is not a new one and has existed for over a decade. Bill and Melinda West, Guy Monacelli, and Dan Childs further comment that the utility should be allowed to charge a nominal annual read fee not to exceed \$10. At the present time, there is no separate fee charged to customers who read their own meters and whose meters are read annually by the utility, so there is no need for the Commission to cap a fee at \$10 when the fee does not exist.

Representative Glenn also recommends that certain language be added to the proposed rule R 460.114 pertaining to customer meter reading. Specifically, Representative Glenn advocates for the utility providing postcards for customers to report their meter readings at no charge and prohibiting utilities from charging customers a monthly meter-reading fee, except a one-time annual fee of \$5 to “true up” the customer’s meter reading with an actual reading by a utility representative. R 460.114 already requires a utility to provide postage-paid, pre-addressed postcards for this purpose upon request. Regarding a \$5.00 true-up fee, to the extent that Representative Glenn’s comment recommends changes to Commission-approved AMI opt-out programs and associated opt-out fees, it is beyond the scope of this rulemaking proceeding. The fees associated with the AMI opt-out program have been approved in other proceedings, include costs other than meter reading costs, and are beyond the scope of this rule revision. The Commission declines to put in place changes to the customer meter reading rule that would affect the AMI opt-out programs or associated costs and fees at this time.

Ms. Kurtz recommends a rule be added that requires a utility to provide one online method to report a meter reading, such as email or an online form. Proposed rule R 460.114 already gives the utilities the option of allowing customers to report meter readings on a secure company website, by telephone, or by other reasonable means. Customers may also report meter readings on a postcard with postage paid by the utilities as provided in proposed rule R 460.114. The Commission concludes this rule reasonably gives the customer the option of reading their own meter at no charge while at the same time giving utilities discretion to accept customer meter readings in other forms, whether reported online, by telephone, or by other reasonable means.

Ms. Kurtz recommends that there be no time limit to how far back a utility must refund a customer for meter errors. Proposed rule R 460.115 limits refunds to customers for meter errors to

the 12-month period immediately preceding the discovery of the error. This rule uses a standard 12-month period in a manner consistent with the Commission's other technical rule sets regarding utility metering equipment. In addition, those technical rule sets provide for a longer period if the date of the inaccuracy cannot be determined. The Commission finds it unreasonable to propose a rule that imposes no limit on the time period for which a utility is required to refund a customer money due to meter errors. With respect to back billing the customer, Ms. Kurtz proposes that the Commission create a rule that prohibits the utility from requiring the customer to pay more in any month than half the prorated amount due. Proposed rule R 460.115(5) requires utilities to offer the customer reasonable payment arrangements for the amount due and proposed rule R 460.115(4) requires utilities to give customers a reasonable time in which to pay the amount of the back billing. The Commission is satisfied these provisions adequately safeguard customers who are back billed because of meter errors.

Ms. Kurtz likewise proposes changes to the proposed rule regarding meter relocation, R 460.116, for when a utility may assess a meter relocation charge. The Commission has reviewed her comment and the proposed rule and is satisfied that the rule as proposed is sufficient.

MEGA also addresses the need for a definition of the term "prepaid service" used in proposed rule R 460.117(1). The Commission agrees with MEGA that a definition of this term is beneficial, has taken into consideration the language MEGA provides in its comments for that proposed definition, and has added a similar definition. MEGA also proposes the addition of a new rule entitled "Prepaid Service" which eliminates the need for a utility to request a waiver of the billing rules and to submit a separate filing. The Commission does not wish to promulgate a rule that circumvents the waiver provisions of these proposed rules at this time. However, in a future

rulemaking proceeding, the Commission will consider stakeholder suggestions regarding the addition of rules pertaining to prepaid service.

Ms. Kurtz recommends the addition of a rule that makes clear that utilities may not enroll a customer in any paperless billing option without the customer's express consent. Proposed rule R 460.118 sets forth electronic billing requirements. Proposed R 460.118(a) provides "A customer shall not be required to use electronic billing." This rule protects customers from being enrolled in electronic billing without their consent.

MEGA discusses proposed rule R 460.125(2), which, among other things, prohibits the assessment of late fees against a residential customer whose utility payments are being made by the Michigan Department of Health and Human Services (MDHHS). The Commission is satisfied that the rule is not ambiguous and can readily be applied and enforced as written. Thus, no new changes are being made to the rule at this time. Regarding MEGA's reference to an issue where a utility's billing system is not designed in a way that the utility can segregate late payment charges that have accrued during different time periods, the Michigan Agency for Energy and the MDHHS have provided guidance to Michigan utilities and assistance agencies that agencies can deduct late fees assessed by the regulated utility that are showing on the bill at the time of intake when a customer is seeking assistance. The 2% late fee should not then become the responsibility of the customer but should be reduced to zero for any payment portion made by the MDHHS through either the Michigan Energy Assistance Program or State Emergency Relief Program. However, the capability of a utility's billing system to segregate late payment charges is not an issue that is being addressed in the current rulemaking at this time.

Deanna Hilbert comments about her concerns that she has heard of utilities shutting off electrical service to the elderly, people in poor health, and to people who depend on life-support

medical equipment. The proposed rules do address the shut off of service to the elderly, provide for medical emergency protection from shut off of service, and also protect those customers who depend on utility service for life support equipment from shut off of service.

Lori Erbaugh and others request that a rule be added that would postpone shut off of service indefinitely for any customer that has a documented medical condition and medical diagnosis of electro-magnetic sensitivity. The current and proposed rules do provide some protection for customers for whom shut off of service would aggravate a medical condition. The rules do not go into detail as to what types of medical conditions qualify for shut off protection other than requiring a health professional to certify the condition exists and that it would be aggravated by a shut off of service. Medical conditions not aggravated by the shut off of utility service would not likely warrant protection under the medical emergency rule that exists in the current and proposed rules given the purpose of the rule is to ensure a person's medical condition should not be made *worse* as a result of a shut off of service.

Kathie Gilginas comments that critical care customers should be informed of holds that are available for shut off of service due to unpaid bills. Proposed rule R 460.129(1)(c) is revised to require utilities to annually inform each residential customer of shut off protection for critical care customers.

Next, MEGA references shut-off protection for medical emergencies in proposed rule R 460.130. MEGA proposes changing the definition of "critical care customer" in a manner that lists the eligibility criteria required to be considered this type of customer and that delineates the type of medical certification form to be used as well as the process for its submission. The Commission agrees with MEGA that a standard utility form should be used statewide in order to receive shut-off protection for a qualifying medical condition or the use of life-support equipment.

However, the Commission is concerned that including a number of procedural requirements when defining a term is improper rulemaking and further concludes that the substantive and procedural requirements for shut-off protection should be inserted in the rule itself rather than in the definition section of the rules. Accordingly, the Commission will adopt many of the recommendations MEGA proposes for the definition of “critical care customer” in a shut-off protection rule instead of a definition. The Commission also agrees with MEGA’s proposal of a separate critical care customer shut-off protection rule and will use many of MEGA’s recommendations in drafting a proposed rule.

MEGA also proposes a draft definition of “medical emergency” that more strictly limits shut-off protection to those circumstances where interruption of service will pose an immediate risk to the person’s life or long-term health. The Commission views this definition as overly restrictive and declines to adopt it. For these same reasons, some of the proposed modifications to proposed rule R 460.130 regarding medical emergency shut off protection that MEGA recommends are not adopted. However, the Commission agrees with MEGA’s recommended use of a statewide standard medical certification form as well as a grace period to allow for submission of the form.

The Coalition to Keep Michigan Warm (the Coalition) filed written comments that propose the inclusion in the rules of one common form to be used by utilities for medical holds as well as a common form to be used for critical care customers, developed through collaboration with one or more non-profits in this state. The Commission agrees that a Commission-approved medical certification form developed with the collaboration of various stakeholders should be used regarding shut-off protection for medical emergency holds and critical care customers. It has amended the medical emergency rule and added a critical care rule accordingly. The Coalition further comments that the rules be amended to require utilities to code customer accounts as

critical care customer accounts when customers voluntarily submit a completed standard form. The Commission agrees and has added this provision to its proposed critical care rule. The Coalition also recommends that the Commission prohibit the remote disconnection of households with critical care customers that have voluntarily notified the utility with a completed form submitted within the last 12 months of the date of disconnection. The Commission agrees that remote disconnection should be prohibited and will include this in the revised critical care rule. The Coalition also recommends that the rules be amended to include a three-business-day grace period to the medical emergency hold to allow customers time to gather signed documents and that the grace period would only be offered once per each 21-day submittal request. The Commission agrees and will incorporate this in the rule. Finally, the Coalition recommends that the Commission eliminate deposits for restoration of service for the medical emergency 21-day hold. The Commission agrees.

The Commission received written comments from Corey Wilson, Manager of Member Services at Cloverland Electric Cooperative, recommending that the proposed rule regarding medical emergency shut-off protection, R 460.130, provide that, if a utility's tariff provides for an after-hours reconnect fee before reconnecting a customer with a medical emergency, the member may get an after-hours service fee to reconnect service. The comments also recommend removing the term "unconditionally" from the rule. The term unconditionally has been removed from the rule, however, after considering the purpose of the rule, the Commission is adding additional language to the rule to make it clear that a utility shall not require payment of an after-hours reconnect fee or a deposit as a condition of restoring service for a 21-day medical emergency hold. The Commission is reluctant to add the requested language authorizing a utility to bill a customer's account for an after-hours reconnection fee as provided in the utility's tariff. This would be an

addition to the current rule that was not the subject of discussion during the numerous collaborative workgroup meetings and one that warrants thoughtful consideration from all stakeholders. However, the Commission welcomes consideration of this additional language in a subsequent rulemaking.

There were written comments that the definition of medical emergency is broad enough to cover both critical care customers and other types of medical conditions. The comments ask why both terms are defined, asking the Commission to eliminate the medical emergency definition but to retain the critical care customer definition and 21-day shut-off protection. There is some overlap in the sense that a critical care customer may very likely meet the requirement of having a medical emergency that would entitle that person to a 21-day medical emergency hold. The medical emergency rule has existed for years and the policy behind that rule is that there should be a 21-day hold for the member of a customer's household whose medical condition is made worse or aggravated by an interruption of utility service. The rule has benefited many customers and it will not be eliminated. Nevertheless, there has also been feedback that it makes sense to treat shut-off protection for the critical care customer differently than a person who may qualify for the 21-day medical emergency hold in terms of recertification and length of protection from shut off of service. As mentioned earlier, the Commission has considered a separate rule for the critical care customer who depends on life supporting medical equipment and for whom an interruption of service would be immediately life-threatening, and has proposed a separate rule in response to the written and oral comments it received.

There is a comment that proposed medical emergency rule, R 460.130, should state that if a customer or member of the customer's household fails to provide additional certificates or exhausts its 126 days and the customer's or household member's condition still exists and they

have failed to make payment arrangements or relocate, the utility has the right to shut off service without any further delays. The comment further mentions that a broken payment arrangement in this instance does not necessitate a restart of a new exemption period, but rather warrants immediate disconnection if applicable. In response to this comment and recommendation, the Commission notes that the utility already has the right to shut off service for nonpayment of a bill and no further rules are necessary. An individual seeking a 21-day medical emergency hold who fails to comply with the requirements of the medical emergency rule does not qualify for the 21-day hold, and there are several ways in which a person may fail to meet the criteria for that hold or an extension of that hold. It is not appropriate to craft a rule that identifies some of the many ways which a person may fail to meet the requirements of the rule and properly avail themselves of the 21-day hold, and the Commission declines to rewrite the rule in this fashion.

MEGA next comments on proposed rule R 460.134, which requires utilities to submit their extreme weather conditions policy to the Commission for review and approval. MEGA comments that the Commission lacks the statutory authority to regulate or approve of a utility's extreme weather conditions policy and further notes that the rule itself contains no criteria that the Commission will use to evaluate the reasonableness of such policies.

The Commission's statutory rulemaking authority is well-recognized and set forth in the introductory paragraph of these proposed rules. For example, MCL 460.6 provides the Commission with "the power and jurisdiction to regulate all...rules, conditions of service, and other matters pertaining to the formation, operation, or direction of public utilities." Likewise, MCL 460.55 provides that the Commission has "...the power and authority to make, adopt, and enforce rules and regulations for the conduct of its business and the proper discharge of its functions hereunder..." and further provides that "[t]he Commission shall also have authority to

make and prescribe regulations for the conducting of the business of public utilities....”

MCL 460.55 further authorizes the Commission to require reports necessary for the performance of its powers and duties.

The Commission commonly promulgates rules the purpose of which is to ensure the provision of safe utility service. In fact, consumer safety is an overriding concern identified in several Commission rule sets. With respect to the proposed rules at issue here, that purpose is addressed in the very first proposed rule, R 460.101(2), which provides, “These rules are intended to promote safe and adequate service to the public and to provide standards for uniform and reasonable practices by electric and natural gas utilities in dealing with residential and nonresidential customers.” It has become clear in recent years, given the Commission’s past investigation into utility practices during the Polar Vortex, as well as in connection with past media reports of deaths possibly linked to a shut off of utility service during extreme weather, that the goals of safe utility service and reasonable utility practices may require that utilities adopt an extreme weather conditions policy. Having such a policy in place provides the Commission with some assurance that no customer will die from the lack of utility service during extreme weather conditions. Accordingly, the Commission disagrees with MEGA’s assertion that it lacks the authority to address consumer safety in the provision of utility service during extreme weather conditions.

Regarding MEGA’s comment on the lack of criteria that the Commission would use to assess the reasonableness of a utility’s extreme weather condition policy, the Commission’s primary concern is consumer safety and this will be the overriding criteria used to assess the reasonableness of any policy before it. The Commission’s principal objective is not, as MEGA suggests in its comment, to reject a utility’s extreme weather condition policy based on undefined criteria, but rather to remain informed of each utility’s policy and any subsequent amendments to

that policy. The fact that these policies may vary among different regulated utilities, based on geographic location, and other factors is inconsequential to the Commission. MEGA seeks “flexibility to tailor their approaches to address circumstances within their respective service areas.” This rule does not impose a specific policy of the Commission’s design upon any utility and gives utilities this flexibility. Thus, the Commission is satisfied that the proposed rule meets its stated objectives while providing regulated utilities with some flexibility to address the issue of extreme weather conditions in a way that meets the needs of the utility and its customer base.

Brock Millard, John Holeton, David Sheldon, Lola Killey, Sandy Taylor, Kurt Snyder, Danielle Carroll, Frank Gonzales Jr., Kristina Ebersole, Tara McKnight, Dennis and Margaret Mucci, Eileen Otto, John Germain, Ann Hassell, Naveen Albert, Katherine Holmes, Mathew Karakas, Dorothy Thielk, Cindy Mckinnon, Dawn Nimmo, Cherie Trent, Jennifer VanDam, William Bathgate, Paula Dombrowski, Ed and Nancy Knox, Adrian Wegener, Sue Smith, Deborah Trombley, Torri Chapman, Steve and Sandy Pickett, Jeremy Van Dyke, Maria Murray, Lee Crandall, Tiffany VanDyke, Robert Buzanowski, Barbara Galster, Brandon [no last name given] from Kalamazoo, Diane Mehalic, Ann Chupick, Mary Reitzel, Leonard Palmeri, Dave McClenaghan, Garold Jahner, Matteo Alastra, Amy Swarts, Jeff Buhner, Steven Taddei, Nan Nelson, Linda Hahn, Deborah Tennant, Mr. Monacelli, Khrysaundt Koenig, Shannon Koenig, David Jackson, Daryl Britton, Sandra Van Houten, Craig Purdie, Ernestine Fowler-Purdie, Holly Perry, Representative Glenn, Sueanne Demers, Ms. Deal, Susan Stroud, David Stroud, and Michigan House Representative Tim Kelly, Ms. Kurtz, Denae Stone, E. James Brady, Karen Strode, and Ms. Rison comment on R 460.137(a) asking for a definition or explanation of what is meant by “hazardous.” State Representative Tim Kelly further recommends that the Commission require the utility to document by photographs or otherwise the condition they have deemed to be

“hazardous.” Representative Kelly further recommends an emergency appeal procedure in the proposed rules for “hazardous” situations where a hearing must be held within 48 hours of a customer’s request for such a hearing and that a utility representative must present documentary evidence of the hazardous condition and testify under oath why that condition has been considered hazardous, and why normal disconnect procedures could not have been followed and a 10-day notice provided. Colleen Satarino expresses her opposition to R 460.137(a).

After reviewing proposed rule R 460.137(a) in light of the numerous comments received and comparing it with the current rule in the Consumer Standards and Billing Practices for Electric and Gas Residential Service regarding emergency shut off found at R 460.136, the Commission has determined that those two rules are redundant, rendering R 460.137(a) unnecessary at this time. Accordingly, this proposed language is stricken in response to comments received in writing, during the hearing, and in response to consistent and overlapping language found in rule R 460.136. Regarding the need for an appeal procedure for emergency shut-off situations, the emergency shut-off rule has worked well up until this point by allowing utilities the right to immediately shut off service for health or safety reasons, while at the same time notifying customers of the reason(s) for the shut off and a phone number and address where a customer may inquire further. The Commission favors the continuation of this longstanding rule as proposed in the rules attached to this order.

Mr. Millard and Ms. Killey also comment that R 460.137(b) and R 460.137(c) are very broad and leave certain definitions up to the utility’s discretion. Further examination of R 460.137(b) leads the Commission to conclude that the rule is unnecessary because use of utility equipment in a manner that adversely affects the equipment would be unauthorized use of that equipment under

proposed rule R 460.137(c). Accordingly, in response to the comments received and in light of the fact that proposed rule R 460.137(c) would encompass those situations where a customer might use utility equipment in a manner that adversely affects the equipment, that provision in this rule is stricken as redundant.

With respect to the comments about the definition of “unauthorized use” of utility equipment in R 460.137(c), the proposed rule set is changed to define the phrase “unauthorized use” in the same manner that “unauthorized use of utility service” is defined in R 460.102b(1) so as to mirror the definition of “unauthorized use” used in state law, specifically 128 PA 2010, MCL 460.9d(9)(f). This clarifies any ambiguity regarding what constitutes “unauthorized use.”

Mr. Millard, Mr. Holeton, Ms. Killey, Suzanne Yarbrough, Ms. Demers, John Diehl, Lynnae Millard, and others object to the phrase “without notice” used in R 460.137(a), (b), and (c). Mr. Millard further proposes that the rule be revised to provide for 10 days’ notice, while Ms. Deal requests that customers be given 21 days’ notice prior to a shut off of service, regardless of the reason. Two of the rule provisions just referenced, specifically R 460.137(a) and (b), have been removed from the proposed rules for reasons already discussed in this order. With respect to rule R 460.137(c), the phrase “without notice” has been removed for the following reasons. Proposed rule R 460.137 was intended to list those circumstances where a utility is entitled to shut off or deny service to a customer. It was never designed to be a rule about notice requirements. Additionally, whenever a utility observes an unsafe condition at a premises within its service territory, it is already entitled to shut off service without prior notification in accordance with the emergency shut-off rule, R 460.136. Unauthorized use of utility service or utility equipment potentially creates an unsafe condition justifying a utility’s shut off of service pursuant to R 460.136. Because the “without notice” phrase in the proposed rule is neither necessary nor

particularly pertinent to the underlying purpose of proposed rule R 460.137, that phrase has been removed.

Mr. Meltzer further comments that proposed rule R 140.137(1)(i) permits shut off of service for not allowing replacement of equipment, or removal of a meter and that this is an “extreme usurpation of one’s liberty and should not be allowed.” 1 Tr, 76. Ms. Erbaugh also comments that she objects to this provision in the rules. David Lonier comments that the phrase “or for the removal of the meter” should be stricken from the proposed rule. Ms. Killey comments that the proposed rule does not define what is meant by “at reasonable times” in reference to that part of the rule where a customer refuses to arrange access at reasonable times. The Commission finds that the phrase “at reasonable times” does not require a special definition as it is accorded its common meaning and is self-explanatory. This rule is in the current rule set, has been in existence for some time, and is necessary to allow the utility to access and maintain its equipment. Regulated utilities own and maintain the metering equipment they use. Further, utilities have to be able to replace old non-functional or broken equipment with new metering equipment. Additionally, when a customer signs up for utility service, it is implied and required that the customer cooperate with the utility to allow utility employees access at reasonable times to utility equipment. Accordingly, this rule is necessary to ensure that the utility can access its equipment.

Regarding R 460.137(1)(j), Ms. Killey comments that the Commission failed to define the terms “adversely affect,” “safety,” “integrity,” and “other individuals,” and therefore the text should be stricken from the proposed rules because it leaves the customer completely vulnerable to whatever the utility deems best for itself. The utility is already entitled to shut off service for safety reasons under the emergency shut-off rule R 460.136, and accordingly that aspect of the rule is redundant. Further, the rule is also redundant given the more general language for rule

violations found in proposed rule R 460.137(1)(k). Accordingly, the Commission agrees with Ms. Killey's recommendation to remove R 460.137(1)(j).

Mr. Holeton comments that the proposed rules eliminate current rule, R 460.139, titled "Form of notice," that requires utilities to give a clear and concise reason for the shut off of utility service, as well as notification regarding where a customer may make inquiry, enter into a settlement agreement, or file a complaint. This comment is incorrect. In the proposed rules, R 460.139 has been renumbered to be R 460.140. The rule is by and large the same, requiring all of the same information in the notice of shut off as before, as well as some additional information not required before, such as information about the right to enter into a payment plan. The proposed rule provides more customer protection and has not been deleted.

Mr. Holeton also comments that the draft rules eliminate a customer's ability to lodge a complaint with the Commission. The Commission disagrees. The same complaint process and procedures that exist now will continue. Nothing regarding that procedure has been changed or eliminated. In proposed R 460.150, these same complaint procedures require utilities to contact customers to address customer complaints within a reasonable time period and to report to the Commission the utility's plan for resolution of the complaint within 10 days after referral. Proposed R 460.154 explains what utilities must do if a bill is disputed, and these requirements are the same as the current rules. Proposed rules R 460.155, R 460.156, and R 460.157 lay out the procedure for requesting a customer hearing with a utility. Proposed rules R 460.160 through R 460.165 provide the procedure a customer may follow to appeal a complaint determination to the Commission. Thus, contrary to Mr. Holeton's comments at the public hearing, a customer's ability to have a complaint or a dispute considered by a utility or the Commission remains the same and is still provided for in this rule set.

Ms. Yarbrough comments that the utilities should be required to give customers written documentation describing the reason power was shut off. The current and proposed rules at issue here do require, under the “Form of notice” rule that utilities provide customers with a clear and concise statement of the reason for the proposed shut off of service. *See*, R 460.139(b) and proposed rule R 460.140(1)(b).

Ms. Kurtz, Representative Kelly, and Representative Glenn comment that the language in R 460.142(1) states an employee “may identify himself/herself to the customer...” immediately prior to a shut off. Ms. Kurtz, and Representatives Kelly and Glenn indicate that this rule should state that the employee must attempt to speak to the customer immediately prior to shut off and, where contact is made, must identify himself or herself. In the Commission’s June 26, 2007 order in Case No. U-14851 (June 26 order), the rulemaking proceeding that promulgated the 2007 amendments to the Consumer Standards and Billing Practices for Electric and Gas Residential Service, the Commission revised this rule opining that, “Because of concerns about the safety of utility representatives, the Commission revised the shutoff rule to provide that identification and acceptance of payment are discretionary.” June 26 order, p. 25. Utility representatives who enter a customer’s premises to shut off service have been threatened in the past. For this reason, out of concern for the safety of utility workers in this state, and consistent with the Commission’s June 26 order, the Commission rejects the recommendation to require utility representatives to identify themselves during shut off.

Ms. Kurtz recommends that a provision be added to proposed rule R 460.143 regarding the manner of shut off of service that requires that the utility keep records of the name and identification of all employees who have ordered the shut off of service and the employee who

performed the remote shut off. The Commission finds this recommendation overly burdensome and unnecessary.

Mr. Monacelli and Mr. Taddei comment that the rules should require the utility to send a customer a paper notice of any proposed changes to its billing practices. Proposed rule R 460.148 requires utilities to prepare a publication that summarizes, in easily understood terms, the rights and responsibilities of its customers pursuant to these rules and to display the publication prominently at all utility office locations open to the general public and to further make it available on its website. Copies of the proposed rules were also made available to the public at the September 22, 2016 public hearing. In addition, the proposed rules were published on ORR's website and in the July 15, 2016 edition of the *Michigan Register*.

In addition, Ms. Yarbrough requests that the Commission offer emergency hearings within 24 hours for people whose power has been shut off illegally and to offer video or telephone conferencing for the disabled or those who lack the ability to drive to Lansing. The proposed rules permit a customer to file a complaint disputing a utility's claim prior to shut off of service and further provide that a utility will not shut off service pending the resolution of a complaint filed with the utility or the Commission. *See* proposed rules R 460.150, R 460.154, and R 460.138. The rules further require that regulated utilities establish personnel procedures that, at a minimum, ensure qualified personnel are available at all times to receive and respond to customer contacts regarding any shut off of service and emergency conditions that occur within the utility's service area. *See*, proposed R 460.147(c). Likewise, the proposed rules require a utility to take reasonable steps to ensure that a customer who is unable to attend the customer hearing due to physical incapacity is not denied the right to a hearing and further allow, for the convenience of the parties, hearings to be conducted by telephone or other electronic media. *See*, proposed R 460.157(2) and

R 460.157(3). The procedures for formal hearings are set forth in a different rule set and are outside the scope of this rulemaking.

The Michigan Environmental Council (MEC) comments that proposed rule R 460.153 does not reflect customer access to data that can reduce customer costs for electricity service. Accordingly, the MEC proposes a change to R 460.153 that would require regulated utilities to participate in programs such as www.greenbuttondata.org “which helps provide a safe and secure interface between utilities, customers, and energy efficiency service providers.” 1 Tr, 129. MEC states that “this program has already addressed security issues and data formats in a manner which would significantly reduce the burden on the Commission and regulated utilities to develop programs and formats themselves.” *Id.* In addition, the MEC recommends that the customer information be accessible on an ongoing basis “to maximize the value of customer information and reinforce positive behaviors that reduce electricity use.” *Id.* Next, MEC requests that the rule set forth a clear, simple, and affordable process to activate the home area network capabilities of new meters to facilitate use of smart appliances and to control customer load during peak usage periods when energy costs are highest. MEC concludes by urging the Commission to take all possible steps to allow for the robust use of energy efficiency technology so that ratepayers can realize cost savings through their customer data.

The Mission:data Coalition (Mission:data), an organization representing more than 40 technology companies that deliver consumer-focused data-enabled energy savings products for homes and businesses, comments on proposed rule R 460.153 as well. Mission:data asks that the proposed rules be updated to provide consumers with the best energy usage data available from AMI where it has been deployed. Mission:data notes that four other states have adopted rules or directives providing consumers access to their own energy usage data recorded by AMI at no

charge as part of basic utility service. Mission:data also recommends that customers not only have access to their own energy usage data, but that they have the ability to share that data with third parties of their choice. Additionally, Mission:data recommends that relevant billing and tariff information be made available in electronic format. With respect to access to usage data, Mission:data recommends that the Commission require utilities to make interval energy usage data available to customers on a secure electronic format using a nationally-standard protocol known as “Green Button Connect My Data.” Additionally, customers should have access to real-time usage information available at the premise, transmitted via the Home Area Network radio in the meter directly to a customer-owned device. Finally, Mission:data requests that utilities provide access to usage data to customers and authorized third parties as a part of basic utility service, so that implementation costs are included in rate base. Thus, the organization proposes specific language to be added to proposed rule R 460.153 related to these recommendations.

With changing technologies and different utility data management and billing systems, the Commission does not believe it is appropriate to prescribe in these rules the use of a particular platform or method for the utility to share customer usage data with the customer or a third party authorized by the customer. Nonetheless, based on MEC’s and Mission:data’s comments regarding customer access to such data to make informed energy decisions and manage costs, the Commission finds that it is appropriate to clarify the Commission’s expectation that utilities provide energy consumption data to customers or authorized third parties in a timely manner and in a readily accessible format. Accordingly, the Commission revises R 460.153(2)(g) in the final rules.

Mr. Meltzer comments that proposed R 460.155(8) should be expanded to require that hearing officers’ qualifications be made available to confirm their competence and impartiality. In

response to Mr. Meltzer's comment, proposed R 460.155(9) is revised to require utilities to provide the hearing officer's resume to the Commission or a party to a customer hearing upon request. Mr. Meltzer further comments that the preponderance of the evidence standard of proof found in proposed R 460.157(4) and R 460.162(3) needs substantive criteria or it will be arbitrarily interpreted. The preponderance of the evidence burden of proof is one that is used in civil court actions and is a well-known legal standard that is easily verifiable by referencing any legal dictionary. In layman's terms, it can best be described as "more likely than not" or when the evidence establishes a legal argument or a disputed fact by more than 50%. It does not require substantive criteria and is not susceptible to arbitrary interpretation.

Mr. Meltzer also comments that proposed R 460.162(2) should be revised to eliminate the portion of the rule that provides that a regulation officer presiding over a customer hearing appeal shall not be required to receive or consider any additional evidence or information that is not a part of the hearing record. This provision will remain in the proposed rule because it is a longstanding rule of procedure that prohibits the enlargement or expansion of the evidentiary record in a customer hearing appeal before the Commission.

Ms. Carroll, Mr. Gonzales Jr., Mr. Buhrer, Mr. Taddei, Ms. Nelson, Ms. Hahn, Ms. Tennant, Khrysaundt Koenig, Mr. Jackson, Mr. Britton, Ms. Van Houten, Mr. Purdie, Ms. Fowler-Purdie, Ms. Perry, Ms. Kurtz, and many others comment that a rule should be added to the billing rules that provides that a utility shall not shut off service to a residence without notice just because a customer has locked or caged a meter to prevent its removal. Likewise, Representative Glenn comments that locking a meter is not illegal and that customers lock meters for a variety of reasons including theft prevention. As noted earlier, regulated utilities own and maintain the metering equipment they use. Further, utilities must be able to replace old non-functional or broken

equipment with new metering equipment. Additionally, when a customer signs up for utility service, it is implied and required that the customer cooperate with the utility to allow utility employees access at reasonable times to utility equipment. For these reasons, the Commission declines to add the requested rule prohibiting a shut off of service for locking a meter.

June Huchingson, Ms. Hassell, Ms. Albert, Ms. Holmes, Ms. Dombrowski, Ed and Nancy Knox, and Kiryl and Carrie Sinitski, Mr. Van Dyke, Ms. Van Dyke, Mr. Germain, Ms. Mehalic, Steve Pickett, Lisa Ziskie, Mr. McClenaghan, Gloria Gorko, Ms. Kurtz and others suggest that a rule be added to require utilities to allow customers to contact them via email or their company websites. Although the billing rules do not currently regulate the various ways in which customers may contact their utility companies, most of Michigan's regulated utilities, in addition to offering a customer service phone line, permit their customers to either email the utility with a question or problem, or to send the utility a question through the company's website via an online chat. Therefore, it does not appear that a new rule on this topic is necessary at this time. Further, these proposed rules do require regulated utilities to adopt personnel procedures that ensure qualified personnel are available and prepared at all times during normal business hours to receive and respond to customer inquiries, service requests, and complaints. *See*, proposed R 460.147(a).

Several written comments request that the rules proposed here be placed on the Commission's website. The current version of these rules is already accessible on the Commission's website under the Commission's "Documents Library" menu, and within the "Administrative Rules/Laws" heading. In addition, the proposed rules are available on the ORR website and were made available to the public during the public hearing on these rules.

Joyce Valentine comments that the notice for the public comment period was unpublished. This is not the case. The notice of hearing and opportunity for public comment was published in

three different newspapers of general circulation across the state, one of which is in the Upper Peninsula not less than 10 days and not more than 60 days before the date of the public hearing, held on September 22, 2016, in compliance with the rulemaking procedure set forth in MCL 24.242 of the Administrative Procedures Act of 1969 (APA).

Ms. Yarbrough proposes that at least one commissioner be present at public hearings on proposed rules. The APA sets forth the rulemaking procedure and requires *either* the head of the promulgating agency or 1 or more persons designated by the head of the agency who have knowledge of the subject matter of the proposed rule to be present at the hearing. *See*, MCL 24.241. At the September 22, 2016 public hearing, there were several knowledgeable members from the Commission Staff who were present as required by the APA. Further, the Commission lacks the statutory authority to promulgate rules regarding rulemaking procedures, a subject clearly regulated by state law in the APA.

Girard Ricken inquires why input was not elicited from actual consumers or the public until now, despite the duration of the rulemaking process. The collaborative that worked on the rules was comprised of stakeholders from a variety of backgrounds. Representing ratepayers were individuals from the Michigan Department of the Attorney General, the Coalition to Keep Michigan Warm, and the Commission Staff. The Commission followed the rulemaking procedures in the APA by publishing notice of the public hearing and providing the proposed rule changes at the hearing and online for public review and comment.

Summary of Rule Changes as a Result of the Public Hearing

- Definition of “critical care customer” changed in R 460.102.
- Definition of “customer hearing” was added in R 460.102.
- Definition of “medical emergency” changed in R 460.102a.

- Definition of “prepaid service” was added in R 460.102a.
- Definition of “unauthorized use” changed in R 460.102b.
- The words “residential” and “residential service” were added to R 460.107.
- The word “residential” was added to R 460.109.
- The words “residential” and “residential service” were added to R 460.111.
- The words “nonresidential” and “nonresidential service” were added to R 460.111a.
- The words “residential service” and “residential” were added to R 460.112.
- Subrule (8) was combined with subrule (3) for better readability in R 460.113.
- The notice requirements for utilities that estimate meter reads were slightly expanded in R 460.113.
- The words “residential” and “small nonresidential” were added to R 460.119.
- A typographical error was fixed in R 460.123 so that the rule references “R 460.137(2)(b)” rather than “R 460.137(e).”
- Notification of the critical care shut-off protection rule was added to R 460.129.
- The words “critical care customer” and “life-supporting” were stricken in R 460.130.
- The word “certification” was changed to “commission-approved medical certification form” in R 460.130.
- A grace period was added to R 460.130 to allow customers to complete their medical certification form.
- R 460.130 was amended to provide that a utility may not require the payment of a deposit or an after-hours reconnection fee as a condition of restoring service.
- R 460.130a was added to provide for critical care shut off protection.

- An error was fixed in R 460.136 so that the reference to “R 460.139(a), (b), and (i)” was changed to “R 460.140(1)(a),(b), and (j).”
- Subrules (1)(a) and (1)(b) were deleted from R 460.137.
- The phrase “without notice” was deleted from R 460.137.
- The order of various provisions was rearranged in subrule (1) in R 460.137 so the rule is more similar to and reads like the current rule.
- Subrule (1)(j) was stricken from R 460.137.
- The words “residential” and “small nonresidential” were added to R 460.146.
- The words “residential” and “small nonresidential” were added to R 460.148.
- R 460.153(2)(g) was amended to require utilities to provide clear instructions regarding the method by which a customer and an authorized third party may obtain customer usage data in a timely manner and a readily accessible format from the utility.
- A requirement was added to R 460.155 that a utility shall provide the resume of a hearing officer to the Commission or any party participating in a customer hearing upon request.
- The words “residential” and “small nonresidential” were added to R 460.158.
- The words “residential” and “small nonresidential” were added to R 460.159.

THEREFORE, IT IS ORDERED that:

A. The rules governing Consumer Standards and Billing Practices for Electric and Natural Gas Service, attached as Exhibit A, are approved and shall be submitted to the Legislative Service Bureau and the Office of Performance and Transformation for their formal approvals.

B. Upon formal approval of the attached rules by the Legislative Service Bureau and the Office of Performance and Transformation, they shall be transmitted to the Joint Committee on Administrative Rules.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Rachael A. Eubanks, Commissioner

By its action of April 28, 2017.

Kavita Kale, Executive Secretary

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

PUBLIC SERVICE COMMISSION

CONSUMER STANDARDS AND BILLING PRACTICES

FOR ELECTRIC AND NATURAL GAS SERVICE

Filed with the Secretary of State on _____

These rules take effect 7 days after filing with the Secretary of State.

(By authority conferred on the public service commission by section 7 of 1909 PA 106, section 2 of 1909 PA 300, section 5 of 1919 PA 419, sections 4 and 6 of 1939 PA 3, and sections 3, 9, and 231 of 1965 PA 380, MCL 460.557, MCL 460.55, MCL 460.4, MCL 460.6, MCL 462.2(12), MCL 16.103, MCL 16.109, MCL 16.331, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, MCL 445.2011, MCL 445.2025, and MCL 445.2030.)

R 460.101, R 460.102, R 460.106, R 460.107, R 460.108, R 460.109, R 460.110, R 460.111, R 460.112, R 460.113, R 460.114, R 460.115, R 460.116, R 460.117, R 460.118, R 460.119, R 460.120, R 460.121, R 460.122, R 460.123, R 460.124, R 460.125, R 460.126, R 460.127, R 460.128, R 460.129, R 460.130, R 460.131, R 460.132, R 460.133, R 460.134, R 460.137, R 460.138, R 460.139, R 460.140, R 460.141, R 460.142, R 460.143, R 460.144, R 460.145, R 460.146, R 460.147, R 460.148, R 460.149, R 460.150, R 460.151, R 460.152, R 460.153, R 460.154, R 460.155, R 460.156, R 460.157, R 460.158, R 460.159, R 460.160, R 460.161, R 460.162, R 460.163, R 460.164, R 460.165, R 460.166, R 460.167, R 460.168, and R 460.169 of the Michigan Administrative Code are amended, R 460.135 is rescinded, and R 460.101a, R 460.102a, R 460.102b, R 460.111a, R 460.126a, R 460.126b are added as follows:

R 460.101 Applicability; purpose.

Rule 1. (1) These rules apply to utility service that is provided by electric and natural gas utilities that are subject to the jurisdiction of the public service commission.

(2) These rules are intended to promote safe and adequate service to the public and to provide standards for uniform and reasonable practices by electric and natural gas utilities in dealing with residential and nonresidential customers.

(3) These rules do not relieve a utility from any of its duties under the laws of this state.

R 460.101a Scope of rules.

Rule 1a. (1) Nothing contained in these rules covering consumer standards and billing practices shall be implemented in a manner that circumvents or is inconsistent with utility rules, orders, or tariffs approved by the commission to ensure the safe and reliable delivery of energy service.

(2) After notice and an opportunity to be heard, utilities determined by the commission to be in violation of these rules shall be subject to all damages and fines contained within the statutes under which these rules are promulgated.

(3) Upon written request of a person, utility, or on its own motion, the commission may temporarily waive any requirements of these rules when it determines the waiver will further the effective and efficient administration of these rules and is in the public interest.

R 460.102 Definitions; A to F.

Rule 2. As used in these rules:

(a) "Actual meter reading" means a natural gas or electric meter reading that is based on the customer's actual energy use during the period reported and that complies with any of the following:

- (i) Performed by a utility representative.
- (ii) Performed by the customer and communicated to the company by mail, telephone, fax, on a secure company website, or other reasonable means.
- (iii) Transmitted to the utility from the meter through a secure communication channel, or by an automated or remote meter reading device.

(b) "Aggregate data" means any customer account information from which all identifying information has been removed so that the individual data or information of a customer cannot be associated with that customer without extraordinary effort.

(c) "Applicant" means an emancipated minor, a person 18 years of age or older, or a business entity requesting utility electric or natural gas service in the name of that person or entity.

(d) "Billing error" means an undercharge or overcharge that is caused by any of the following:

- (i) An incorrect actual meter reading by a company representative.
- (ii) An incorrect remote meter reading.
- (iii) An incorrect meter constant or pressure factor.
- (iv) An incorrect calculation of the applicable rate.
- (v) A meter switched by the utility or a utility representative.
- (vi) An incorrect application of the rate schedule.
- (vii) Failure to provide a monthly bill to the customer at the end of a billing cycle except as provided in these rules or other relevant tariffs.
- (viii) Another similar act or omission by the utility in determining the amount of a customer's bill. An undercharge or overcharge that is caused by a non-registering meter, a meter error, or the use of an estimated meter reading or a customer reading is not a billing error.

(e) "Billing month" means a natural gas or electric consumption period of not less than 26 days or more than 35 days.

(f) "Billing specialist" means a representative of a utility who investigates and resolves meter reading discrepancies or errors.

(g) "Commission" means the Michigan public service commission.

(h) "Complaint determination" means the written decision of a hearing officer after a customer hearing.

(i) "Critical care customer" means any customer who requires, or has a household member who requires, home medical equipment or a life support system, and who, on an annual basis, provides a commission-approved medical certification form from a physician or medical facility to the utility identifying the medical equipment or life support system and certifying that an interruption of service would be immediately life-threatening.

(j) "Customer" means an account holder who purchases electric or natural gas service from a utility. An individual who is a customer must be at least 18 years of age or an emancipated minor.

(k) "Customer hearing" means a hearing on a disputed matter before a hearing officer that a utility offers to a customer under the provisions of R 460.155.

(l) "Cycle billing" means a system that renders bills for utility service to various customers on different days of a calendar month.

(m) "Delinquent account" means an account with charges for utility service that remains unpaid 5 days or more after the due date.

(n) "Eligible low-income customer" means a utility customer whose household income does not exceed 150% of the federal poverty guidelines as published by the United States department of health and human services or who receives any of the following:

(i) Supplemental security income or low-income assistance through the department of human services or successor agency.

(ii) Food stamps.

(iii) Medicaid.

(o) "Eligible military customer" means a utility customer, spouse of a customer, or customer whose spouse is in the military who meets all of the following:

(i) Is on full-time active duty.

(ii) Is deployed overseas in response to a declared war or undeclared hostilities or is deployed within the United States in response to a declared national or state emergency and the household income is reduced as a result.

(iii) Notifies the utility of his or her eligibility.

(iv) Provides verification of eligibility if requested by the utility.

(p) "Eligible senior citizen customer" means a utility customer who meets both of the following criteria:

(i) Is 65 years of age or older.

(ii) Advises the utility of his or her eligibility.

(q) "Energy assistance program" means a program that provides financial assistance or assistance in improving residential energy efficiency and energy conservation.

(r) "Energy usage" means the consumption of electricity or natural gas.

(s) "Estimated bill" means a bill for service at the premises that is not based on an actual meter reading for the period being billed but that is based on calculations of how much natural gas or electricity a customer likely used during the billing period.

(t) "Formal hearing" means a dispute resolution process administered by an administrative law judge pursuant to these rules, applicable tariffs, and the rules of practice and procedure before the commission, R 792.10101 to R 792.11903.

(u) "Formal hearing request" means a document describing how a regulated utility has violated these rules, a commission order, or a tariff that is presented in writing to the

executive secretary of the commission to initiate an administrative process pursuant to the rules of practice and procedure before the commission.

R 460.102a Definitions; G to P.

Rule 2a. As used in these rules:

- (a) "Gas cost recovery" means the adjustment in rates to recognize the cost of purchased natural gas.
- (b) "Hearing officer" means a notary public who is qualified to administer oaths to conduct customer hearings against the utility company and who is on a list filed with the commission.
- (c) "Heating season" means the period between November 1 and March 31.
- (d) "In dispute" means that a matter is the subject of an unresolved disagreement, claim, or complaint against a utility by a customer, or the customer's authorized agent.
- (e) "Informal complaint" means a matter that requires follow-up action or investigation by the utility or the commission to resolve the matter without a customer hearing or formal hearing.
- (f) "Inquiry" means a question regarding a utility matter that is asked by the customer and answered by the utility or the commission.
- (g) "Large nonresidential customer" means a nonresidential customer with usage of 300 Mcf or more of natural gas per year or 30,000 kWh or more of electric usage per year, including schools and centrally metered apartment buildings.
- (h) "Late payment charge" means a finance, service, carrying, or penalty charge that is assessed by a utility because a bill or portion of a bill is delinquent.
- (i) "Medical emergency" means an existing medical condition of the customer or a member of the customer's household, as defined and certified by a physician or public health official on a commission-approved medical certification form, that will be aggravated by the lack of utility service.
- (j) "Meter" means a utility-owned device that measures the quantity of natural gas used by a customer, including a device that measures the heat content of natural gas or a utility-owned device that measures and registers the amount of electrical power used.
- (k) "Meter error" means a failure to accurately measure and record all of the natural gas or electrical quantities used that are required by the applicable rate or rates.
- (l) "New customer" means a customer who has not received the utility's service within the previous 6 years.
- (m) "Occupant" means an individual or entity, other than the customer of record, occupying a premises. An occupant who is an individual must be at least 18 years of age or an emancipated minor.
- (n) "Peak season" means the period during which a utility experiences its maximum demand for electric or natural gas service.
- (o) "Positive identification information" means a consistently used appropriate identification such as, but not limited to, any of the following:
 - (i) A driver's license, identification card issued by a state, U.S. military card, U.S. military dependent's identification card, Native American tribal document, passport, or other government-issued identification containing a photograph.

(ii) Articles of incorporation, tax identification documents, business license, certificate of authority, or similar documents proving identity of a business.

(p) "Power supply cost recovery" means the adjustment in rates to recognize the cost of purchased power and fuel for electric generation.

(q) "Prepaid service" means a commission-authorized plan that entitles a utility to receive payments for service to a customer's premises in advance of the customer's actual usage of the service.

(r) "Previous customer" means a customer who has received the utility's service within the previous 6 years but is not currently receiving service.

(s) "Primary purpose" means the collection, use, or disclosure of information that a utility collects or a customer supplies when an authorized business need exists or as an emergency response requires in order to do any of the following:

(i) Provide, bill, or collect for regulated electric or natural gas service.

(ii) Provide for system, grid, or operational needs.

(iii) Provide services as state or federal law requires or as the utility's approved tariff specifically authorizes.

(iv) Plan, implement, or evaluate programs, products, or services related to energy assistance, demand response, energy management, or energy efficiency.

R 460.102b Definitions; Q to Z.

Rule 2b. As used in these rules:

(a) "Regulation officer" means a member of the commission staff who resolves complaints pursuant to these rules.

(b) "Remote shutoff and restoration capability" means the ability to terminate or restore service to a premises from another location.

(c) "Residential service or use" means the provision or use of electricity or natural gas for residential purposes.

(d) "Satisfactory payment history" means that a customer's account was not delinquent more than 1 time in the past 12 months.

(e) "Seasonally billed customer" means a customer who is billed on a seasonal basis pursuant to a utility tariff that is approved by the commission.

(f) "Secondary purpose" means any purpose that is not a primary purpose.

(g) "Settlement agreement" means a documented agreement that is entered into by a customer and a utility and that resolves any matter in dispute.

(h) "Shutoff of service" means a discontinuance of utility service that is not requested by a customer.

(i) "Small nonresidential customer" means a nonresidential customer with usage of less than 300 Mcf of natural gas per year or less than 30,000 kWh of electric usage per year, including schools and centrally metered apartment buildings.

(j) "Termination of service" means a discontinuance of utility service that is requested by a customer or when there is no customer of record.

(k) "Third party" means a person or entity that has no contractual relationship with the utility to perform services or act on behalf of the utility or customer.

(l) "Unauthorized use of utility service" or "unauthorized use" means theft, fraud, interference, or diversion of service, including but not limited to, meter tampering which is any act that affects the proper registration of service through a meter;

by-passing which is unmetered service that flows through a device connected between a service line and customer-owned facilities; and, service restoration by anyone other than the utility or its representative.

(m) "Utility" means a firm, corporation, cooperative, association, or other legal entity that is subject to the jurisdiction of the commission and that provides electric or gas service.

PART 2. APPLICATION FOR SERVICE

R 460.106 Service requests

Rule 6. (1) Applicants for service may become customers by requesting service in person at the utility company office, in writing, by telephone, fax, or internet, or other means of communication. Using any of these methods, an applicant shall do all of the following:

- (a) Provide positive identification information as defined in R 460.102a.
- (b) Upon request, show ownership or a lease for the property where service will be rendered if applying to be a nonresidential customer.
- (c) Pay a deposit, if required by these rules.
- (2) The utility may also require payment of a delinquent account as a condition of providing or continuing service if the following conditions apply:
 - (a) The delinquent account is in the customer's or applicant's name.
 - (b) The delinquent account is not in dispute, owed to the utility, and accrued within the last 6 years. The utility shall provide the applicant with information on the process to refute or contest the delinquent account.

R 460.107 Residential service account requirements.

Rule 7. (1) A utility, applicant, or customer may request the addition of more than 1 adult on the residential service account by meeting both of the following requirements:

- (a) The utility obtains documented approval from both the applicant and additional adult.
- (b) The additional adult provides positive identification information.
- (2) If the applicant is renting the premises for which residential service is requested, a utility may require proof that the applicant is a tenant. Written or oral confirmation by the manager, landlord, or owner of the property, or a verified signed copy of the rental agreement is sufficient proof. A utility may verify a lease by requesting a lease agreement containing notarized signatures of the landlord and tenant or by obtaining contact information for the landlord.
- (3) A utility may require proof of ownership if an applicant is requesting residential service for a premises he or she has purchased.
- (4) An occupant shall establish an account with a utility within 30 business days of taking occupancy or ownership, whichever comes first, except where residential service is included in a lease.
- (5) If a customer ceases to live in a residence while another occupant continues to live in the residence, both of the following requirements shall be met:

(a) The customer shall notify the utility pursuant to R 460.127 that he or she is discontinuing service.

(b) An occupant desiring to continue utility service at that address shall establish an account in his or her name within 30 days of the customer's notification of termination of service, or, if the customer fails to notify the utility, within 30 days of the date the customer ceases to reside at the address. A utility may hold an occupant who fails to establish an account under this subdivision responsible for the use of the utility service after the customer has ceased to reside at the residence. The utility shall not back bill the occupant for a period longer than 24 months from the date the customer terminated service, or, if the customer has failed to notify the utility of the termination of service, from the date that the utility first discovered the customer's change in residency.

PART 3. DEPOSITS AND GUARANTEE TERMS AND CONDITIONS

R 460.108 Prohibited practices.

Rule 8. A utility shall not require a deposit or other guarantee as a condition of new or continued utility service based upon any of the following:

(a) Consumer credit score, if the customer or applicant has prior utility service credit history with any electric or gas utility during the previous 6 years.

(b) Income.

(c) Home ownership.

(d) Residence location.

(e) Race.

(f) Color.

(g) Creed.

(h) Sex.

(i) Age.

(j) National origin.

(k) Marital status.

(l) Familial status.

(m) Disability.

(n) Any other criteria not authorized by these rules.

R 460.109 Deposit for residential customer.

Rule 9. (1) A utility may require a deposit as a condition of providing, restoring, or continuing residential service to an applicant or customer if any of the following provisions apply:

(a) At the time of the request for service, the applicant or customer has an unpaid balance for electric or natural gas service that accrued within the last 6 years and that remains unpaid and is not in dispute.

(b) The applicant or customer misrepresents his or her identity or credit standing.

(c) The applicant or customer fails to provide positive identification information upon request at the time of applying for new service.

(d) The applicant or customer requests service for a location at which he or she does not reside.

(e) The applicant or customer engaged in unauthorized use of utility service within the last 6 years, if the finding of unauthorized use of utility service was made after notice and an opportunity for a hearing and is not in dispute.

(f) The utility has had 1 or more checks issued from the customer's account returned from a financial institution for insufficient funds or no account or has had 1 or more payments from the customer's debit or credit card or other form of payment denied within the last 12 months, excluding financial institution error.

(g) The customer or applicant has sought relief under federal bankruptcy laws within the last 6 years.

(h) Within the past 3 years, the customer or applicant lived in a residence with a person under all of the following circumstances:

(i) The person accrued a delinquent account for electric or natural gas service to the shared residence during the time the customer or applicant lived there.

(ii) The delinquent account remains unpaid and is not in dispute.

(iii) The person with the delinquent account now resides with the applicant.

(2) Notwithstanding any of the provisions of subrule (1) of this rule, a utility shall not require a deposit as a condition of providing service or continuing service to a current residential customer if any of the following provisions apply:

(a) The department of health and human services or its successor agency is currently making or has committed to making a payment or payments to the utility on behalf of the applicant.

(b) The applicant or customer secures a guarantor who is a customer in good standing with the utility.

(c) The applicant is 65 years of age or older and has a satisfactory payment history for the past 3 years with any natural gas or electric utility.

R 460.110 Rescinded.

R 460.111 General deposit conditions for residential customers.

Rule 11. (1) All of the following apply to payment of deposits for residential service:

(a) For a primary residence, a deposit that is required under these rules due to a prior outstanding account that is not in dispute or a shutoff for nonpayment shall not be more than twice the average monthly bill for the premises or, if the current customer's consumption history for the premises is unavailable, twice the utility's system average monthly bill for residential service.

(b) For seasonal properties, a deposit that is required under these rules due to a prior outstanding account that is not in dispute or a shutoff for nonpayment shall not be more than twice the average monthly bill for peak season usage.

(c) A utility shall offer an eligible low-income customer the option of paying a deposit required under these rules in 2 monthly installments.

(2) Whenever a utility requests a deposit because of an unpaid account for residential service incurred in another household member's name for a time when the customer and the other person shared a residence, as described in R 460.109(1)(h), the utility shall provide the customer with notice of the reason for the request, the commission rule that allows the utility to make the request, and the process for refuting the action.

(3) A deposit that is required during the heating season due to a shutoff of service for nonpayment within the past 12 months, shall not exceed the utility system average monthly natural gas bill for natural gas residential service or the utility system average monthly electric bill for electric residential service. If the customer receives natural gas and electric residential service from a combination utility, the deposit shall not exceed the total of the utility's combined system average monthly natural gas and electric bills.

(4) A deposit that is required as a condition of providing, restoring, or continuing residential service due to unauthorized use of utility service shall not be more than either of the following:

(a) Four times the average peak season monthly bill for the premises if the customer's consumption history for the premises is available.

(b) Four times the utility's system average peak season monthly bill for residential service if the customer's consumption history for the premises is unavailable.

(5) The utility may also require payment of the delinquent account and approved charges as a condition of providing, restoring, or continuing residential service if the account is in the customer's, or applicant's name, is delinquent, owed to the utility, and accrued within the last 6 years.

(6) Unless the applicant misrepresents his or her identity or credit standing or fails to provide positive identification information, if requested, at the time of applying for residential service, the utility shall not assess a deposit if the customer has been receiving service for 30 days or more.

(7) Except in the case of unauthorized use of utility service, if the utility shuts off residential service for nonpayment, the utility shall not require a deposit as a condition of restoring service unless the utility offered the customer, prior to shutoff for nonpayment, the opportunity to enter into a payment plan as provided in Part 10 of these rules, R 460.154 to R 460.159.

(8) A utility shall pay interest at the rate of 5% per annum on all deposits. A utility shall credit interest semiannually to the residential service account of the customer or pay it upon the return of the deposit, whichever occurs first.

(9) The customer's credit shall be established and the utility shall return the deposit and accrued interest upon satisfactory payment by the customer of all proper charges for residential service for a period of 12 consecutive months. A utility may retain the deposit assessed because of unauthorized use of utility service for a period of 36 months and shall refund the deposit upon satisfactory payment of the final 12 months' charges.

(10) For purposes of this rule, payment is satisfactory if it is made before the issuance of a notice of shutoff of service for nonpayment that is not in dispute or within 5 days after the issuance of the next succeeding monthly bill, whichever is sooner.

(11) For customers terminating residential service, if the utility has not already returned the deposit, the utility shall credit the deposit, with accrued interest, to the final bill. For customers continuing to receive service, a utility may apply the deposit against an existing arrearage that is not in dispute. The utility shall promptly return the balance to the customer.

(12) A utility shall maintain a detailed record of all deposits received for residential service. The record shall show all of the following information:

(a) The name and address of the depositor and either the applicant or customer.

(b) The location served by the utility at the time of making the deposit and each successive location while the deposit is retained.

(c) The amount and date of the deposit.

(d) The dates the utility paid interest and the amounts.

(e) Each transaction concerning the deposit.

(f) The terms and conditions governing the return of the deposit.

(13) A utility shall provide the applicant or customer with a receipt for the deposit and instructions regarding how a person who is entitled to the return of his or her deposit may obtain the deposit.

(14) A utility shall make reasonable efforts to locate applicants or customers with unclaimed deposits or credits.

(15) A utility shall apply deposit standards uniformly to all applicants and customers. A utility shall provide to any person who objects to paying a deposit information on the process to contest the deposit requirement.

R 460.111a General deposit conditions for nonresidential customers.

Rule 11a. (1) A utility may require a deposit from a customer or applicant as a condition of receiving or continuing nonresidential service if 1 of the following conditions applies:

(a) The customer or applicant has an unfavorable credit rating with a credit reporting agency.

(b) The customer or applicant has an unpaid delinquent bill for natural gas or electric service.

(c) The customer or applicant has engaged in unauthorized use of utility service within the last 6 years.

(d) Two or more shutoff notices have been issued within the most recent 12-month period.

(e) Service has been discontinued for nonpayment.

(f) An unsatisfactory record of bill payment within the first 6 months after service commenced exists.

(2) If a deposit for nonresidential service is required, all of the following limitations apply:

(a) A deposit for small nonresidential customers shall not be more than 15% of the customer's annual electric or natural gas bill.

(b) Large nonresidential customers may be required to pay a deposit equal to 25% of the customer's annual electric or natural gas bill.

(c) If a customer or applicant has engaged in unauthorized use of utility service, the deposit shall not be more than 4 times the average peak season monthly bill, or 4 times the utility's system average peak season monthly bill for the same class of service if the customer's consumption history for the service is unavailable.

(3) During the heating season, a small nonresidential customer shall not pay a deposit unless that customer has been shut off for nonpayment during the prior 12 months. A customer deposit under this subrule may not exceed the customer's average monthly bill.

(4) A utility may retain a deposit for nonresidential service until the customer accrues a record of 12 continuous months of bill payment on or before the due date.

(5) A utility shall pay interest at the rate of 5% per annum on all deposits for nonresidential service. A utility shall credit interest semiannually to the customer's service account or pay it upon the return of the deposit, whichever occurs first.

(6) If nonresidential service is terminated, the utility may apply the deposit, plus accrued interest, to the customer's unpaid balance. If the deposit plus the accrued interest is more than the unpaid balance, then the utility shall return the excess to the customer.

(7) A utility shall maintain a detailed record of all deposits received for nonresidential service. The record shall show all of the following information:

(a) The name and address of the depositor and applicant or customer.

(b) The location served by the utility at the time of making the deposit and each successive location while the deposit is retained.

(c) The amount and date of the deposit.

(d) The dates the utility paid interest and the amounts.

(e) Each transaction concerning the deposit.

(f) The terms and conditions governing the return of the deposit.

(8) A utility shall provide the nonresidential customer or applicant with a receipt for the deposit and instructions regarding how a customer who is entitled to the return of the deposit may obtain it.

(9) The utility shall make reasonable efforts to locate customers due unclaimed deposits and credits for nonresidential service.

(10) Each utility shall, within 60 days of the effective date of this rule, transmit a notice explaining the conditions under which a deposit for nonresidential service may be required to all existing customers. This notice shall also be provided to new customers within 30 days after service has commenced or, at the utility's option, with the first bill rendered.

(11) The utility may, at its option, accept an irrevocable financial institution letter of credit, a surety bond, or other corporate guarantee instead of a deposit for nonresidential service.

R 460.112 Guarantee terms and conditions for residential customers.

Rule 12. (1) A guarantee for residential service that is accepted in accordance with these rules shall be in writing and shall be in effect for not more than 36 months. The written guarantee shall state all of the terms of the guarantee and the maximum amount guaranteed. The utility shall not hold the guarantor liable for a greater amount, unless agreed to in a separate written guarantee.

(2) Notwithstanding the stated term of the guarantee, if longer than 12 months, the customer's credit shall be established and the utility shall release the guarantor upon satisfactory payment by the customer of all proper charges for residential service for a period of 12 consecutive months, unless the guarantee was required due to unauthorized use of utility service.

(3) A utility may require a guarantee for residential service because of unauthorized use of utility service for 36 months.

(4) For purposes of this rule, payment is satisfactory if it is made before the issuance of a notice of shutoff of service for nonpayment that is not in dispute or within 5 days after the issuance of the next succeeding monthly bill, whichever is sooner.

(5) A utility may withhold the release of a guarantor pending the resolution of a shutoff for nonpayment that is in dispute in accordance with these rules.

PART 4. METER READING PROCEDURES, METER ACCURACY, METER ERRORS AND METER RELOCATION

R 460.113 Actual and estimated meter reading.

Rule 13. (1) Except as specified in these rules, a utility shall provide all customers with an actual meter reading each billing month.

(2) A utility shall outline in its tariff a process that addresses missing or invalid usage data affecting the amount billed to a customer and that ensures the amount billed during the billing period is appropriate.

(3) A utility may estimate a meter reading under any of the following circumstances:

(a) An actual meter reading cannot be obtained by any reasonable or applicable method described in R 460.102.

(b) An automated or remote meter reading device is not functioning and customer usage data cannot be retrieved.

(c) A utility meter reader does not have access to the meter.

(d) There is a condition at the meter location that puts the meter reader's safety at risk.

(e) The utility bills the customer seasonally in accordance with its commission-approved tariffs.

(4) If a utility estimates a meter reading pursuant to subrule (3)(c) or (3)(d), the utility shall notify the customer of all of the following information:

(i) The reason for the estimated reading.

(ii) Safe access must be provided.

(iii) A customer has the option of reading the meter and submitting the actual meter reading to the utility pursuant to these rules.

(iv) A utility may install a remote meter, actual meter reading device, or other similar device that provides the utility with an actual meter reading.

(5) If a meter reading equipment failure occurs, the utility shall make all reasonable efforts to replace or repair equipment so that not more than 2 estimated bills are issued.

(6) A utility shall not use estimated meter reads to deny residential customers the benefit of a lower-tiered rate, if available.

(7) If a utility cannot obtain an actual meter reading, then the utility shall maintain records of the efforts made to obtain such a reading and its reasons for failing to obtain it.

(8) A utility may estimate customer bills only upon a finding by the commission that a utility's estimated bill procedures assure reasonable billing accuracy. A bill that is rendered on an estimated basis shall be clearly and conspicuously identified as such. A utility shall submit any substantive changes to its billing estimation procedures to the commission for approval.

(9) An estimated bill that is generated because the actual meter reading is outside the range for the premises usage shall not be issued in consecutive months. If the utility is actively engaged in resolving the problem, an additional 30 days is permitted to correct the problem and obtain an actual meter reading.

(10) If a utility shuts off service due to nonpayment, the utility shall complete a final reading, or, if unable to obtain an actual meter reading after reasonable attempts, the utility may estimate the bill.

(11) If a utility estimates a customer's bill for 2 or more consecutive months and an actual meter reading is then obtained, the utility shall offer the residential and small nonresidential customer the opportunity to pay the bill over the same number of months as consecutively estimated bills. This subrule does not apply if the utility cannot obtain access to the meter and the customer fails to provide an actual meter reading if requested by the utility.

R 460.114 Customer meter reading.

Rule 14. A utility shall provide residential and small nonresidential customers with the opportunity to read and report energy usage provided that the customer accurately reports energy usage on a regular basis. A utility shall provide postage-paid, pre-addressed postcards for this purpose upon request, or the utility may permit customers to report meter readings on a secure company website, by telephone, or other reasonable means. At least once every 12 months, a utility shall obtain an actual meter reading of energy usage to verify the accuracy of readings reported in this manner. Notwithstanding the provisions of this rule, a utility company representative may read meters on a regular basis.

R 460.115 Meter accuracy and errors.

Rule 15. (1) Meters with actual meter readings that are rejected by the utility billing system for 2 consecutive months because they are outside the expected range of the customer's usage for the premises shall be reviewed by a billing specialist, investigated, and, if necessary, the utility shall repair or replace the meter.

(2) A utility shall calculate the period and amount of inaccuracy of electric meters pursuant to R 460.3616 and R 460.3309. A utility shall calculate the period and amount of inaccuracy of gas meters pursuant to R 460.2361 and R 460.2362.

(3) If a utility finds that an electric or gas meter has an average meter accuracy less than 98% or more than 102%, an adjustment for bills for the inaccuracy may be made in the case of under registration and shall be made in the case of over registration.

(4) Notwithstanding the provisions of any other rule, except in the case of unauthorized use of utility service, back billing of customers or refunds to customers for meter errors is limited to the 12-month period immediately preceding discovery of the error. The customer shall be given a reasonable time in which to pay the amount of the back billing, after consideration of the amount of the back bill and the duration of the inaccuracy, and service shall not be shut off during this time for nonpayment of the amount of the back billing if the customer is complying with the repayment agreement.

(5) If the amount due the utility is more than \$5.00, the utility may bill the customer for the amount due. The utility shall offer the customer reasonable payment arrangements for the amount due. The bill for the undercharge shall not include interest.

(6) If the amount of the refund due an existing or previous customer as the result of meter over registration is less than \$5.00, a refund is not required to be made. Paid overcharges shall be credited to the existing customer or paid to a previous customer with 5% interest, commencing on the 60th day following payment.

R 460.116 Meter relocation.

Rule 16. (1) A utility may assess a meter relocation charge in any of the following situations:

(a) The utility shut off service by disconnection at the street or pole because the utility could not obtain access to the meter or utility facilities.

(b) The customer, its authorized agent, or another responsible adult refused to permit the utility access to the meter on 2 separate occasions, or on a single occasion if harm is threatened, and the utility can produce documentation of requests for access and/or requests for the customer to perform a meter reading that were refused.

(c) The utility shut off service due to unauthorized use of utility service or the customer acknowledges personal responsibility and the utility bills the customer for unauthorized use of utility service.

(d) The customer requests that the utility relocate the meter or other utility facilities.

(2) If the utility moves the meter for reasons other than the reasons listed under subrule (1) of this rule, and the customer wants the meter placed in a different location than that selected by the utility, then the customer shall pay any additional costs.

PART 5. BILLING AND PAYMENT STANDARDS

R 460.117 Bill information.

Rule 17. (1) Except for prepaid service, the utility shall bill each customer promptly after reading the meter. The bill shall state clearly all of the following information:

(a) The beginning and ending actual meter readings and dates for the billing period.

(b) The units of energy consumed during the billing period and the units of energy consumed during the comparable period the prior year. Upon customer request, the utility shall provide weather-adjusted consumption data to the customer or to a third party designated by the customer.

(c) A designation of the rate.

(d) The due date.

(e) Any previous balance.

(f) The amount due for energy usage.

(g) The amount due for other authorized charges.

(h) The amount of tax.

(i) The total amount due.

(j) The applicable rate schedules, the explanation of rate schedules, and the explanation of how to verify the accuracy of the bill will be provided by the company upon request.

(k) That the customer should contact the company regarding an inquiry or complaint about the bill before the due date.

(l) The address and telephone number of the utility at which the customer may initiate any inquiry or complaint regarding the bill or the service provided by the utility.

(m) That the utility is regulated by the commission.

(n) For nonresidential customers, the bills shall contain all of the following:

(i) The date by which the customer must pay the bill to benefit from any discount or to avoid any penalty.

(ii) Any conversions from meter reading units to billing units, any calculations to determine billing units from recording or other devices, or any other factors, such as power supply cost recovery adjustments, used in determining the bill. A statement may appear on the bill advising the customer that the information can be obtained by contacting the utility. Any multiplier used to determine billing units shall be shown when used.

(iii) If the billing period differs from the meter reading cycle and the reading data is calculated from actual metered data, then the actual meter reading shall be shown on the bill.

(2) A commission-regulated utility proposing a new bill format shall submit its proposed bill format to the commission staff prior to introduction to its customers.

R 460.118 Electronic billing requirements.

Rule 18. Any utility wishing to issue billing statements electronically shall comply with all of the following requirements:

- (a) A customer shall not be required to use electronic billing.
- (b) No enrollment or usage fees shall be assessed to a customer who chooses to receive bills or customer information electronically.
- (c) The electronic billing statement shall include, at minimum, all information listed in R 460.117.
- (d) The company shall maintain a secure and encrypted site to be accessed by the customer after completing a secure registration process.
- (e) The utility may require that the customer use a password or security question to access the electronic billing system. The company shall not require the customer to use his or her social security number to enroll in or access the billing system.
- (f) Any fees to accept electronic payments shall be clearly displayed in the payment window.
- (g) Any payment made electronically shall be treated as a payment to the company business office.
- (h) Use of the electronic system shall not restrict the customer in using other payment methods. All other payment methods shall continue to be available to the customer.

R 460.119 Separate bill; consolidation and balance transfers for residential and small nonresidential customers.

Rule 19. (1) A utility shall transmit a separate bill pursuant to R 460.117 for service to residential and small nonresidential customers provided at each service location.

(2) A utility may consolidate 2 or more active accounts with the documented authorization of the residential or small nonresidential customer.

(3) Notwithstanding the provisions of subrule (1) of this rule, if there is a shutoff or termination of service at a separate metering point, residence, or other location pursuant to these rules, then a utility may transfer an unpaid balance to any other account of the customer if either of the following requirements are met:

- (a) Unpaid balances from residential accounts are only transferred to another residential service account of that customer.

(b) Unpaid balances from any nonresidential account are only transferred to another nonresidential account of that customer.

(4) The utility shall have positive identification information that shows that the residential or small nonresidential customer is the same at both residences or locations and shall present that information to the customer upon request.

(5) When a utility transfers an unpaid balance, the utility shall provide the residential or small nonresidential customer with a written notice of the balance transfer, the balance transfer address, the amount of the transfer, the commission rule that allows the transfer, and the process for refuting the action.

R 460.120 Billing frequency; method of delivery.

Rule 20. (1) A utility shall send a bill each billing month to its customers pursuant to the approved rate schedules unless the utility and the customer agree to another billing interval or the commission approves an alternative billing frequency method. A utility shall send a bill to customers by mail unless the utility and the customer agree to another method of delivery.

(2) A utility that is authorized to bill customers seasonally or use a customer-read system shall send a bill pursuant to the tariffs approved by the commission.

(3) A bill shall be mailed, transmitted, or delivered to the customer not less than 21 days before the due date. Failure to receive a bill properly mailed, transmitted, or delivered by the utility does not extend the due date.

(4) A customer may designate a third party to receive bills, shutoff notices, or other communications from the utility on the customer's behalf if the customer submits a document signed by the customer and the designated third party to the utility. The receipt of bills by a third party does not make that party responsible for the bills unless the third-party recipient is a guarantor under R 460.112.

(5) Customers who use electronic billing and payment shall have the same rights and responsibilities as customers who use paper bills and payment by United States mail.

R 460.121 Equal monthly billing.

Rule 21. Upon a residential customer's request, a utility shall bill a residential customer with a satisfactory payment history under an equal monthly billing program, if the commission finds that the billing program assures reasonable billing accuracy. If a residential customer has a credit balance of more than \$10.00 at the end of the program year, upon the request of the customer, the utility shall either return the credit balance or credit it to the next month's bill. If the balance is less than \$10.00, the utility shall credit the amount to the residential customer's account.

R 460.122 Cycle billing.

Rule 22. A utility may use cycle billing if a customer receives a bill on or about the same day of each billing month. If a utility changes meter reading routes or schedules by more than 7 days, it shall provide notice to affected customers at least 10 days before making the change.

R 460.123 Payment of bill.

Rule 23. (1) A utility shall permit each customer a period of not less than 21 days from the date the bill was sent to pay in full, unless the customer and the utility agree on a different due date. A utility shall not withdraw funds from a customer's account before the due date in cases where a customer uses an automatic bill payment plan unless the customer agrees to a different period.

(2) Except as otherwise provided in subrule (3) of this rule, a utility shall not attempt to recover from a customer any outstanding bills or other charges due upon the account of any other person, unless that customer has entered into a lawful guarantee under R 460.112, or another lawful agreement to pay those bills and charges.

(3) To avoid shut off of residential service pursuant to R 460.137(2)(b), when an occupant has lived with a residential customer within the last 3 years, currently resides with the customer, and the customer has a delinquent account that remains unpaid, is not in dispute, and accrued during shared residency, both are equally responsible for the unpaid bill. The utility shall advise the customer and occupant of the process by which the customer may refute this claim unless that customer has entered into a guarantee under R 460.112, or another agreement to pay those bills and charges.

(4) The customer has the right to pay any delinquent account at any time prior to the shut off of service date to preserve uninterrupted service. After proper notice of shut off under R 460.139 and R 460.140 has been provided, it shall be the customer's responsibility to contact the utility and arrange payment before disconnection.

(5) The utility may authorize an agent to accept payments on behalf of the utility. The authorized agent shall accept payment and provide payment verification, without request, that may be used by the customer to verify payment with the utility. The payment verification shall clearly state all of the following:

(a) That the payment may not be credited to the customer's account for up to 2 business days.

(b) Any charges or fees for use of the authorized agent services.

(c) That to avoid shutoff, the customer must contact the utility with verification of payment made to an authorized agent.

(6) The authorized agent shall remit payments to the utility every other business day, at a minimum, and the company shall credit those payments to customer accounts within 1 business day of receiving them from the payment agent. Authorized agent locations shall be clearly marked as "Authorized Agent for [Company]." The utility shall provide information on bills every 6 months that warns customers not to use unauthorized payment centers.

(7) Except in situations of unauthorized use of utility service, a combination utility company, when requested, shall permit eligible low-income customers to do any of the following:

(a) Designate how partial payments shall be applied to their account.

(b) Choose to retain either the electric service or natural gas service if faced with a shutoff, provided that the customer allows the utility to have access to the non-chosen service for shutoff.

(c) Protect the retained service from shut off during the heating season, provided that payments for current usage are made on the retained service and the customer is in good standing with the utility on any payment plan for which the customer qualifies.

(8) Whenever an eligible low-income customer of a combination utility company receives a disconnect notice, the notice shall clearly show the customer has both of the following options:

- (a) An extended payment plan for both gas and electric service.
- (b) An extended payment plan to retain either gas or electric service as chosen by the customer.

R 460.124 Payment period.

Rule 24. (1) The date a bill is sent is the date the utility transmits the billing information to the customer. If the last day for payment falls on a day when the mail is not delivered, or other day when the utility offices that accept customer payments are not open to the general public, the payment date shall be extended through the next business day. Customer remittances postmarked on the due date shall be considered to have been timely paid. If the postmark is illegible, the date of mailing shall be designated as 2 days before receipt by the utility.

(2) If a customer fails to make full payment by the due date, the utility may implement its collection practices, including the use of automated telephone calls which remind the customer or a third party that the bill is past due. Neither the utility nor its agents shall make more than 1 call per day to a specific customer or third party in which contact is made with the customer or third party.

R 460.125 Late payment charges.

Rule 25. (1) Except as otherwise provided by statute, a utility shall bill each residential customer for the amount of natural gas or electricity consumed and any other approved charges pursuant to the rates and tariffs approved by the commission.

(2) A utility may assess residential customers a late payment charge that is not more than 2%, not compounded, of the portion of the bill, net of taxes, that is delinquent. A utility shall not assess a late-payment charge against a residential customer whose payments are made by the department of health and human services or who is participating in a shutoff protection program described in Part 9 of these rules, R 460.145 to R 460.153.

(3) A utility may not charge residential customers a late payment fee for failure to pay an estimated bill by the due date unless the customer is subsequently delinquent on a bill using an actual meter reading. This rule shall not apply if the bill is estimated because the utility was unable to gain access to the meter, the utility's lack of access is documented, and the customer refused to provide an actual meter reading.

(4) For nonresidential customers, unless the utility's tariff states otherwise, a late payment charge of not more than 2%, not compounded, may be applied to the unpaid balance outstanding, net of taxes, if the bill is not paid in full on or before the date on which the bill is due.

R 460.126 Billing for unregulated non-energy services.

Rule 26. A utility may include charges for unregulated non-energy services, such as appliance repair or appliance protection programs, together with charges for natural gas and electric service on the same monthly bill if the charges for the unregulated non-

energy services are designated clearly and separately from the charges for the natural gas or electric service and it is noted that it is an unregulated service. Failure to pay for unregulated non-energy service charges may result in the termination of that service but not the shut off of the natural gas or electric service. If partial payment is made, the utility shall first credit payment to the balance outstanding for natural gas or electric service pursuant to the provisions of R 460.123(7) and R 460.123(8) where applicable.

R 460.126a Billing error.

Rule 26a. (1) If a utility overcharges a customer due to a billing error, then the utility shall refund or credit the amount of the paid overcharge to the customer. Paid overcharges shall be credited to a customer with 5% APR interest, commencing on the sixtieth day following payment. A utility is not required to adjust, refund, or credit an overcharge plus 5% APR interest for more than the 3 years immediately preceding discovery of the billing error, unless the customer is able to establish an earlier date for commencement of the error.

(2) Upon customer request, paid overcharges for billing errors greater than \$10.00 shall be refunded within 30 days of the request.

(3) If a utility undercharges a customer, in cases that do not involve unauthorized use of utility service, the utility may back bill the customer for the amount of the undercharge during the 12-month period immediately preceding discovery of the error, and the utility shall offer the customer reasonable payment arrangements for the amount of the back bill, which shall allow the customer to make installment payments over a period at least as long as the period of the undercharge. The utility shall take into account the customer's financial circumstances when setting payment amounts.

R 460.126b Responsibility for unauthorized use of utility service.

Rule 26b. (1) In cases that involve unauthorized use of utility service, the utility may back bill the customer for the service used. The back bill for service used may include 5% interest.

(2) The utility may charge fees for unauthorized use of utility service in accordance with commission-approved tariffs.

(3) If a utility shuts off service for unauthorized use of utility service, the utility may bill a customer for all of the following:

- (a) The cost of investigating the unauthorized use.
- (b) The cost of relocating the meter.
- (c) The cost of any damages that have been caused to utility-owned equipment.

PART 6. VOLUNTARY TERMINATION OF SERVICE

R 460.127 Voluntary termination.

Rule 27. (1) Subject to the provisions of these rules, a utility customer or authorized representative shall do all of the following:

- (a) Notify the utility in person, or by telephone, in writing, by fax or on the internet at least 10 business days prior to requested service termination.
- (b) Allow safe access to the utility, if necessary, to perform a final meter read.
- (c) Provide an address for final billing at the time of request for a final read.

- (d) Notify the utility if an existing occupant continues to occupy the premises.
- (2) The utility shall do both of the following:
 - (a) Provide a final actual meter reading within 10 business days of the request for termination or estimate the final reading and offer the customer the option to provide an actual meter reading. If the meter is not read within the 10-day time frame the utility shall document the reason for no actual meter reading. An actual meter reading shall be obtained by the next normal actual meter reading cycle.
 - (b) Schedule the customer's final reading within a 4-hour time frame if the utility cannot access the meter.
- (3) A property owner shall provide notice to the utility within 30 days after abandoning or surrendering a property to avoid liability for any unauthorized use of utility service as provided in MCL 460.9d(6).

PART 7. ENERGY ASSISTANCE AND SHUTOFF PROTECTION PROGRAMS FOR RESIDENTIAL CUSTOMERS

R 460.128 Listing of energy assistance programs for residential customers.

Rule 28. The commission shall annually provide a listing of all federal and state energy assistance programs and the eligibility requirements of each program to all utilities.

R 460.129 Notice of energy assistance programs for residential customers.

Rule 29. (1) A utility shall annually inform each residential customer of all of the following information:

- (a) The federal and state energy assistance programs that are available and the eligibility requirements of the programs, as provided to the utility by the commission.
- (b) The medical emergency provisions of R 460.130.
- (c) The critical care customer provisions of R 460.130a.
- (d) The shutoff protection programs described in R 460.131 and R 460.132.
- (e) The military shutoff protections of R 460.133.
- (2) The utility shall provide to residential customers the information required by subrule (1) of this rule. The information in subrule (1) of this rule may be explained on the customer's bill, provided as a bill insert, or provided by other means of transmittal. This information shall also be posted on the company's website. If the utility does not print an explanation on the customer's bill, then the utility shall, on the customer's bill, direct the customer to the bill insert or other transmittal.
- (3) If additional information regarding energy assistance programs becomes available after the utility's initial notice to residential customers, the commission shall provide that information to all utilities. Within 60 days of receiving the information, the utility shall provide the new eligibility requirements or benefits levels for energy assistance programs to all of its residential customers and the new benefit levels to all customers currently enrolled in the programs.
- (4) When a residential customer receives a past-due notice from the utility, the utility shall provide the customer access to information about energy assistance programs referenced in subrules (1) and (3) of this rule, which shall, at minimum, include a telephone number of a utility representative who is able to provide this information.

R 460.130 Medical emergency.

Rule 30. (1) A utility shall restore service or postpone shut off of service for not more than 21 days if the customer or a member of the customer's household has a medical emergency. The customer shall provide the utility with a commission-approved medical certification form that identifies all of the following:

- (a) The medical condition.
 - (b) Any medical equipment needed for the medical emergency.
 - (c) The specific time period during which the shut off of service will aggravate the medical emergency.
- (2) A utility shall not require payment of an after-hours reconnect fee or a deposit as a condition of restoring service for a 21-day medical emergency hold under this rule.
- (3) Upon request, a utility shall provide and make available on its website a commission-approved medical certification form for use in obtaining a medical emergency hold under this rule.
- (4) The utility shall provide the customer with a grace period of 3 business days during which the utility shall postpone the shutoff of utility service to allow the customer time to obtain a completed commission-approved medical certification form.
- (5) The utility shall extend the restoration or postponement for additional periods of not more than 21 days, not to exceed a total postponement of shut off of service of 63 days in any 12-month period per household member, only if the customer provides additional certification that the customer or a member of the customer's household has a medical emergency.
- (6) A utility shall not be required to grant shutoff extensions totaling more than 126 days per household in any 12-month period.
- (7) Nothing in this rule relieves the customer of his or her obligation to pay for utility service.
- (8) Nothing in this rule shall prohibit a utility that observes an unsafe connection at a customer's location caused by unauthorized use of electric or natural gas service, from implementing measures to cure or address the unsafe connection pursuant to section 9d(1) of 1939 PA 3, MCL 460.9d(1).

R 460.130a Critical care customer shut off protection

Rule 30a. (1) A utility shall restore or refrain from shutting off utility service to a critical care customer due to an inability to pay a utility bill where an interruption of service would be immediately life threatening.

(2) On an annual basis, a critical care customer shall provide the utility with an updated commission-approved medical certification form certifying his or her continued status as a critical care customer. If the customer's status as a critical care customer ends, a customer or occupant of the household shall notify the utility of the change in status.

(3) A utility shall provide a critical care customer with a grace period of 3 business days during which it shall postpone the shutoff of utility service to the critical care customer to allow the customer time to obtain a completed commission-approved medical certification form.

(4) Upon request, a utility shall provide and make available on its website a commission-approved medical certification form for use in obtaining a physician's or

medical facility's certification demonstrating the customer's status as a critical care customer. Upon receipt of the medical certification form, the utility shall notify the customer that it has received the form.

(5) A utility shall maintain a special file on critical care customers and an appropriate identification of such customers for the purpose of ensuring that utility service is provided for as long as the customer remains a critical care customer and the customer's inability to pay continues.

(6) When a utility has notice of a critical care customer for whom a planned service interruption would be immediately life threatening, the utility shall notify the customer of the planned service interruption and shall not shut off service using remote shutoff capability without first initiating person-to-person contact with the customer.

(7) Nothing in this rule relieves the customer of his or her obligation to pay for utility service. A utility may require that the customer enter into a reasonable payment plan.

(8) Nothing in this rule shall prohibit a utility that observes an unsafe connection at a customer's location caused by unauthorized use of electric or natural gas service, from implementing measures to cure or address the unsafe connection pursuant to section 9d(1) of 1939 PA 3, MCL 460.9d(1).

R 460.131 Winter protection plan for eligible low-income customers.

Rule 31. (1) Except where unauthorized use of utility service has occurred, a utility shall not shut off service to an eligible low-income customer during the heating season for nonpayment of a delinquent account if the customer pays to the utility a monthly amount equal to 7% of the estimated annual bill for the eligible customer and the eligible customer demonstrates, within 14 days of requesting shutoff protection, that he or she has made application for state or federal heating assistance. If an arrearage exists at the time an eligible low-income customer applies for protection from shut off of service during the heating season, the utility shall permit the customer to pay the arrearage in equal monthly installments between the date of application and the start of the subsequent heating season.

(2) A utility may shut off service to an eligible low-income customer who does not pay the monthly amounts referred to in subrule (1) of this rule after giving notice in the manner required by these rules.

(3) If an eligible low-income customer fails to comply with the terms and conditions of this rule, a utility may shut off service after giving the customer notice, by personal service or first-class mail, which contains all of the following information:

- (a) The eligible low-income customer has defaulted on the winter protection plan.
- (b) The nature of the default.
- (c) That unless the customer makes the payments that are past due under this rule within 10 days of the date of mailing, the utility may shut off service.
- (d) The date on or after which the utility may shut off service, unless the customer takes appropriate action.
- (e) That the customer has the right to file a complaint disputing the claim of the utility before the date of the proposed shut off of service by calling the company.
- (f) That the customer has the right to request a hearing before a hearing officer if the complaint cannot be otherwise resolved and that the customer must pay to the utility that

portion of the bill that is not in dispute within 7 business days of the date that the customer requests a hearing.

(g) That the customer has the right to represent himself or herself, be represented by counsel, or be assisted by other persons of his or her choice in the complaint process.

(h) That the utility will not shut off service pending the resolution of a complaint that is filed with the utility or the commission pursuant to these rules.

(i) The telephone number and address of the utility where the customer may make inquiry, enter into a payment plan or settlement agreement, or file a complaint.

(j) That the customer should contact a social services agency immediately if the customer believes he or she might be eligible for emergency economic assistance.

(k) That the utility will postpone shut off of service if a medical emergency exists at the customer's residence and the customer provides the documentation as specified in R 460.147.

(l) That the utility may require a deposit and restoration charge if the utility shuts off service for nonpayment of winter protection monthly amounts.

(m) That the utility will not shut off service if the customer or the spouse of the customer is on active military duty.

(4) At the conclusion of the heating season, the utility shall reconcile the accounts of eligible low-income customers and permit customers to pay any amounts owing in equal monthly installments between April 1 and October 31. A utility may shut off service to eligible customers who fail to make installment payments on a timely basis in the manner required by these rules.

(5) Except where unauthorized use of utility service has occurred at a customer's premises within the past 2 years and the bill remains unpaid, during the heating season a utility shall not require an eligible low-income customer, whose utility service has been shut off, to pay a fee for restoring service or a security deposit pursuant to R 460.109 or R 460.111, before applying for protection under this rule.

(6) Except where unauthorized use of utility service has occurred within the past 2 years at the premises where the customer has resided and the bill remains unpaid or safety is a concern, a utility may not require an amount greater than 1/12 of an arrearage owed to restore service or initiate participation in the winter protection plan.

(7) Winter protection provisions of these rules do not apply to customers who have been shut off or who have a pending shut off for unauthorized use of utility service within the past 2 years at the customer's current premises until all charges are paid pursuant to these rules or satisfactory payment arrangements are made with the utility.

(8) Upon request, the utility shall provide customers who enroll in the winter protection program with documentation that they are participating in the program.

(9) Bills issued to customers participating in the winter protection program shall clearly identify the minimum amount that the customer must pay to prevent shut off of service. Utilities may bill at higher amounts to recover past due amounts and the utility may encourage customers to pay amounts in excess of the minimum provided that the minimum payment is clearly designated on the bill.

(10) Subject to prior commission approval, a utility may offer an optional shutoff protection program to its customers, provided that the optional shutoff protection program offers eligibility and shutoff protection that meets or exceeds the eligibility criteria and customer protections contained in subrule (1) of this rule.

R 460.132 Winter protection plan for eligible senior citizen customers.

Rule 32. (1) A utility shall not shut off service to an eligible senior citizen customer during the heating season.

(2) At the customer's request, a utility shall restore service to an eligible senior citizen customer's documented personal residence during the heating season without payment of the amount due, deposits, reconnection fees, or other charges.

(3) At the conclusion of the heating season, the utility shall reconcile the accounts of eligible senior citizen customers and permit them to pay any amounts owing in equal monthly installments between April 1 and October 31.

(4) Nothing in this rule relieves the customer of his or her obligation to pay for utility service.

(5) Nothing in this rule shall prohibit a utility that observes an unsafe connection at a customer's location caused by unauthorized use of electric or natural gas service, from implementing measures to cure or address the unsafe connection pursuant to section 9d(1) of 1939 PA 3, MCL 460.9d(1).

R 460.133 Eligible military customer.

Rule 33. (1) The utility shall not shut off service to an eligible military customer for a period of 90 days. The utility shall continue to provide shutoff protection for at least 1 additional 90-day period as long as the customer meets all of the conditions for an eligible military customer and requests the utility to do so. After the close of the last 90-day period, the utility shall require the customer to pay any past due amounts in equal monthly payments over a period of up to 12 months.

(2) The utility shall provide the eligible military customer with information on payment assistance programs.

(3) Nothing in this rule shall prohibit a utility that observes an unsafe connection at a customer's location caused by unauthorized use of electric or natural gas service, from implementing measures to cure or address the unsafe connection pursuant to section 9d(1) of 1939 PA 3, MCL 460.9d(1).

R 460.134 Extreme weather condition policy.

Rule 34. (1) Within 6 months of the effective date of this rule, a utility shall adopt and submit an extreme weather condition policy to the commission for approval that provides, at a minimum, both of the following:

(a) The criteria or factors a utility follows in suspending disconnection of service to residential customers during extreme hot and cold weather.

(b) Any preferential treatment given to certain classes of residential customers.

(2) In the event of any subsequent changes to the extreme weather condition policy, a utility shall submit those changes to the commission for its review and approval.

R 460.135 Rescinded.

Rule 35.

PART 8. PROCEDURES FOR SHUTOFF AND RESTORATION OF SERVICE

R 460.136 Emergency shutoff.

Rule 36. Notwithstanding any other provision of these rules, a utility may shut off service temporarily for reasons of health or safety or in a state or national emergency. When a utility shuts off service for reasons of health or safety, the utility shall leave a notice at the premises in accordance with the provisions of R 460.140(1)(a),(b), and (j).

R 460.137 Shutoff or denial of service permitted.

Rule 37. (1) Subject to the requirements of these rules, a utility may shut off or deny service to a customer for any of the following reasons:

- (a) The customer has not paid a delinquent account that accrued within the last 6 years.
- (b) The customer has failed to provide a deposit or guarantee permitted by these rules.
- (c) The customer has engaged in unauthorized use of utility service or unauthorized use of equipment furnished and owned by the utility occurs, including obtaining the use of equipment by submitting an application containing false information.
- (d) The customer has refused to arrange access at reasonable times for the purpose of inspection, meter reading, maintenance, or replacement of equipment that is installed upon the premises, or for the removal of a meter.
- (e) An occupant who has used electricity or natural gas has failed to establish service in conformance with these rules.
- (f) The customer has failed to comply with the terms and conditions of a payment plan or settlement agreement.
- (g) For violation of, or noncompliance with, the utility's rules on file with, and approved, by the commission.

(2) Residential customers may also be shut off or denied service for either or both of the following reasons:

- (a) The customer misrepresented his or her identity for the purpose of obtaining utility service or put service in another person's name without permission of the other person.
- (b) An individual living in the customer's residence meets both of the following:
 - (i) Has a delinquent account for service with the utility within the past 3 years that remains unpaid and is not in dispute.
 - (ii) The individual lived in the customer's residence when all or part of the debt was incurred. The utility may transfer a prorated amount of the debt to the customer's account, based upon the length of time that the individual resided at the customer's residence. This paragraph does not apply if the individual was a minor while living in the customer's residence.

(3) Nonresidential customers may also be shut off or denied service for either of the following reasons:

- (a) Failure of the customer to fulfill his or her contractual obligations for service or facilities that are subject to regulation by the commission.
- (b) Nonpayment of unpaid balances on any other nonresidential account incurred by the customer under a different account name by the customer's predecessor in interest, or by any other entity, the debt of which the customer is legally obligated to assume.

R 460.138 Shut off prohibited.

Rule 38. (1) A utility shall not shut off service for any of the following reasons:

(a) The customer has not paid for items, such as merchandise, appliances, or services that are not approved by the commission as an integral part of the utility service that is provided by the utility.

(b) During the heating season, the customer is an eligible senior citizen.

(c) The customer has not paid for concurrent service received at a separate metering point, residence, or location.

(d) The customer has not paid for a different type or class of service received at the same or a different location. The placing of more than 1 meter at the same location for the purpose of billing the usage of specific residential energy-using devices under optional rate schedules or provisions is not a different type or class of service for the purposes of this rule.

(e) The customer has not paid for service used by another person, such as a tenant. A utility may shutoff service in any of the following circumstances where proper notice has been given:

(i) If the customer supplies a written, notarized statement that the premises are unoccupied.

(ii) If the premises are occupied and the occupant agrees, in writing, to the shut off of service.

(iii) If it is not feasible to provide service to the occupant as a customer without a major revision of existing distribution facilities. Where it is feasible to provide service, the utility shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant refuses, the utility may shut off service pursuant to these rules.

(f) A person qualifies as an eligible military customer.

(g) For nonresidential customers, failure to pay the bill of another customer as guarantor.

(h) The customer has an informal complaint, customer hearing, or formal hearing pending with the utility or the commission, except pursuant to the terms of an interim determination, pursuant to R 460.155, R 460.163, and R 460.168.

R 460.139 Notice of shut off.

Rule 39. (1) Not less than 10 days before the proposed shut off of service, pursuant to the provisions of R 460.140, R 460.142 and R 460.143, a utility shall send a notice to the customer by first-class mail, or personal service.

(2) The utility shall send the 10-day notice to the account name and address and to the address where service is provided if the service address is different and the notice can be delivered at that address. A utility shall maintain a record of the date the notice was sent.

(3) A utility shall permit a customer to designate a consenting individual or agency to receive a copy of a notice of shut off.

(4) Not less than 30 days before the proposed shut off of service to a single-metered dwelling that is used as a residence for 3 or more separate households, a utility shall transmit a notice to each dwelling unit that indicates that the customer of record, the landlord, has failed to pay an outstanding bill and is subject to shutoff of service on or after a specified date.

(5) Not less than 10 days before the proposed shut off of service to a nonresidential facility that is occupied by more than 5 business entities that are not responsible for

payment of the bill, a utility shall make a reasonable attempt to notify each occupant that service may be subject to shut off after a specified date.

(6) For an involuntary shut off, at least 1 day before shut off of service, the utility shall make not less than 2 attempts to contact the customer by telephone, if a telephone number is available to the utility, to advise the customer of the shutoff and what steps the customer must take to avoid shutoff. If the utility uses an automated notification system, the utility shall document the process for ensuring that at least 2 attempts are made to notify the customer of the pending shutoff. If the telephone number is not available, the customer has no telephone, or the utility chooses not to make telephone contacts, the utility shall either leave a notice at the premises advising the customer that service will be shut off on or after the next business day or send notice by first-class mail postmarked at least 5 business days before shutoff of service is scheduled. The utility shall document all attempts to contact the customer. The 10-day notice sent under subrule (1) or (5) of this rule shall be considered as 1 attempt.

R 460.140 Form of notice.

Rule 40. (1) A notice of shut off of service shall contain all of the following information:

(a) The name and address of the customer, and the address at which service is provided, if different.

(b) A clear and concise statement of the reason for the proposed shut off of service.

(c) The date on or after which the utility may shut off service, unless the customer takes appropriate action.

(d) That the residential and small nonresidential customer may have the right to enter into a payment plan with the utility for an amount owed to the utility that is not in dispute and that the customer is presently unable to pay in full.

(e) That the residential and small nonresidential customer may have the right to enter into a settlement agreement with the utility if the claim is for an amount that is in dispute.

(f) That the customer has the right to file a complaint disputing the claim of the utility before the proposed date of the shut off of service.

(g) That the customer has the right to request a hearing before a hearing officer if the customer disputes the reasonableness of the payment plan or settlement agreement offered by the utility or if the complaint cannot be otherwise resolved and that the customer must pay to the utility that portion of the bill that is not in dispute within 10 business days of the date that the customer requests a hearing.

(h) That the customer has the right to represent himself or herself, to be represented by counsel, or to be assisted by other persons of his or her choice in the complaint process.

(i) That the utility will not shut off service pending the resolution of a complaint that is filed with the utility or the commission pursuant to these rules.

(j) The telephone number and address of the utility where the customer may make inquiry, enter into a payment plan or settlement agreement, or file a complaint.

(k) That the utility may require a deposit and restoration charge if the utility shuts off service for nonpayment of a delinquent account or for unauthorized use of utility service.

(2) For residential customers a notice of shut off of service shall also contain all of the following information:

(a) A combination utility shall include all of the following information on disconnection notices for eligible low-income customers whose natural gas and electric services are combined:

- (i) The amounts for both natural gas and electric service, listed separately.
 - (ii) That the customer has the option of choosing 1 of his or her services to retain with the appropriate payment.
 - (iii) That the customer may have the option to enter into a payment plan for both natural gas and electric service, or to retain either natural gas or electric service as chosen by the customer.
- (b) That the customer should contact a social services agency immediately if the customer believes he or she might be eligible for an energy assistance program or other emergency economic assistance and should inform the utility of any efforts being made to obtain payment assistance.
- (c) That customers who believe they may be eligible for assistance from an energy assistance program should determine if assistance is available before enrolling in a payment plan because many agencies may not provide assistance if shut off is avoided by signing a settlement agreement.
- (d) That during the heating season the utility will postpone shut off of service if a customer is an eligible low-income customer that enters into a winter protection payment plan with the utility and the customer provides documentation that the customer is actively seeking emergency assistance from an energy assistance program.
- (e) The energy assistance telephone line number at the department of health and human services or an operating 2-1-1 system telephone number.
- (f) That the utility will postpone the shut off of service if a certified medical emergency exists at the customer's residence and the customer informs and provides documentation to the utility of that medical emergency.
- (g) That the customer should contact the utility for information about a shutoff protection program.

R 460.141 Time of shut off.

Rule 41. (1) Subject to the requirements of these rules, a utility may shut off service to a customer on the date specified in the notice of shut off or at a reasonable time following that date. If a utility does not shut off service and mails a subsequent notice, then the utility shall not shut off service before the date specified in the subsequent notice. Shut off shall occur only between the hours of 8:00 a.m. and 4:00 p.m.

(2) A utility shall not shut off service on a day, or a day immediately preceding a day, when the services of the utility are not available to the general public for the purpose of restoring service and shall not shut off service on a Friday during the heating season to a customer who has defaulted on a shutoff protection program under these rules.

R 460.142 Manner of shutoff.

Rule 42. (1) Immediately preceding the shut off of service, an employee of the utility who is designated to perform that function may identify himself or herself to the customer or another responsible person at the premises and may announce the purpose of his or her presence.

(2) The employee shall have in his or her possession a copy of the delinquent account of the customer and request any available verification that the outstanding claims have been satisfied or are currently in dispute. Unless the customer presents evidence that reasonably indicates that the claim has been satisfied or is currently in dispute, the employee may shut off service.

(3) The employee may be authorized to accept payment and shall not shut off service if the customer offers payment in full, together with a commission-approved collection charge for sending the employee to the premises, if provided in the utility's schedule of rates and tariffs.

(4) The customer may pay in any reasonable manner, including by personal check, credit card, or debit card. Payment by personal check, credit or debit card is not reasonable if the customer has paid with a personal check, credit card, or debit card within the last 12 months and at least 1 check has been returned for insufficient funds or no account, or at least 1 credit card or debit card payment has been denied excluding financial institution error.

(5) After notice has been provided pursuant to R 460.139, and if the customer does not respond, the employee may shut off service.

(6) When the utility employee shuts off service, the employee shall leave a notice in a conspicuous place upon the premises. For all forms printed after the effective date of these rules, the notice shall state that service has been shut off, the address and telephone number of the utility where the customer may arrange to have service restored, and that any efforts by the customer to restore his or her own service are unlawful and dangerous.

R 460.143 Manner of shut off for service provided with remote shut off and restoration capability.

Rule 43. (1) For an involuntary shut off of service using meters with remote shut off and restoration capability, at least 1 day before shut off of service, the utility shall make at least 2 attempts to contact the customer by 1 of the methods listed in R 460.139(6). The notice shall conspicuously state that the disconnection of service will be done remotely and that a utility representative will not return to the premises before disconnection.

(2) The utility shall document all attempts to contact the customer.

(3) If the utility contacts the customer or other responsible adult in the customer's household or premises by telephone on the day service is to be shut off, the utility shall inform the customer or other responsible person that shutoff of service is imminent and the steps necessary to avoid shut off. Unless the customer presents evidence that reasonably demonstrates that the claim is satisfied or is in dispute, or the customer makes payment, the utility may shut off service.

(4) If the utility complies with the notice requirements of this rule, no further customer contact is required on the day service is to be shut off and the utility may shut off service.

R 460.144 Restoration of service.

Rule 44. (1) After a utility has shut off service, it shall restore service promptly upon the customer's request when the cause has been cured or credit arrangements satisfactory to the utility have been made.

(2) When a utility is required to restore service at the customer's meter manually, the utility shall make every effort to restore service on the day the customer requests restoration. Except for reasons beyond its control, including excavation or reconnection at a pole, the utility shall restore service not later than the first working day after the customer's request.

(3) For utilities using meter technology with remote shutoff and restoration capability, service shall be restored on the day the customer requests restoration, except in the case of documented equipment failure.

(4) The utility may assess the customer a charge, including reasonable costs, for restoring service and relocating the customer's meter as specified in the utility's approved schedule of rates and tariffs.

(5) In cases of unauthorized use, a utility may reestablish electric or natural gas service if the legal owner cannot provide documentation establishing the identity of the tenant responsible for the prior unauthorized use, proves that he or she is the legal owner of the property, and agrees to payment of the additional fees for reestablishing electric or natural gas service at the location as provided in section 9d(4) of 1939 PA 3, MCL 460.9d(4).

(6) Nothing in these rules shall prohibit the prosecution of an individual or customer for unauthorized use, sale, or transfer of service as permitted by law.

PART 9. CUSTOMER RELATIONS AND UTILITY PROCEDURES

R 460.145 Applicability.

Rule 45. The rules in this part apply to all customer inquiries, service requests, and complaints that are made to a utility regarding utility service and charges.

R 460.146 Payment plan procedures for residential and small nonresidential customers.

Rule 46. (1) A utility shall establish a policy to allow a residential or small nonresidential customer the opportunity to enter into a minimum of 2 documented payment plans for an amount owed to the utility that is not in dispute, if a customer claims an inability to pay in full.

(2) In negotiating a payment plan due to the customer's inability to pay an outstanding bill in full, the utility shall not require the residential or small nonresidential customer to pay more than a reasonable amount of the outstanding bill upon entering into the plan, and not more than reasonable installments until the remaining balance is paid. For purposes of determining reasonableness, the parties shall consider all of the following factors:

- (a) The size of the delinquent account.
- (b) The customer's ability to pay.
- (c) The time that the debt has been outstanding.
- (d) The reasons that the customer has not paid the bill.
- (e) The customer's payment history.
- (f) Any other relevant factors concerning the circumstances of the customer.

(3) A utility is not required to enter into more than 2 payment plans with a residential or small nonresidential customer who defaulted on the terms and conditions of such payment plan within the last 12 months.

(4) A utility shall document that a residential customer has been notified by telephone, other electronic media, or letter of all of the following:

(a) If a customer is seeking payment assistance from a social service agency, agreeing to this payment plan may prevent the customer from getting emergency assistance.

(b) That the customer needs to notify the utility if the customer is working with an agency.

(c) That a customer should not agree to the payment plan if he or she is not satisfied with it.

(d) If the customer has an unexpected loss or reduction of income after the payment plan is implemented, he or she may request a review and modification of the plan.

R 460.147 Personnel procedures.

Rule 47. A utility shall establish personnel procedures that, at a minimum, ensure all of the following:

(a) That qualified personnel are available and prepared at all times during normal business hours to receive and respond to all customer inquiries, service requests, and complaints. A utility shall make the necessary arrangements to ensure that customers who are unable to communicate in the English language receive prompt and effective assistance.

(b) That qualified personnel who are responsible for, and authorized to enter into, payment plans or settlement agreements on behalf of the utility are available at all times during normal business hours to respond to customer inquiries and complaints.

(c) That qualified personnel are available at all times to receive and respond to customer contacts regarding any shut off of service and emergency conditions that occur within the utility's service area.

(d) That the names, business addresses, and telephone numbers of personnel who are designated and authorized to receive and respond to the requests and directives of the commission regarding customer inquiries, service requests, and complaints during business hours are current and on file with the commission. The utility shall also provide a contact for emergency situations that may arise after business hours.

(e) That upon request, the utility representative reading the meter shall provide the customer or other household member with appropriate picture identification confirming the representative's employment with the company.

(f) That employees are informed of their responsibility to protect customers' information and data.

R 460.148 Publication of procedures for residential and small nonresidential customers.

Rule 48. (1) A utility shall prepare a publication that summarizes, in easily understood terms, the rights and responsibilities of its residential and small nonresidential customers pursuant to these rules and other applicable provisions of statutes, rules, and tariffs.

(2) A utility shall display the publication prominently at all utility office locations open to the general public and make it available to residential and small nonresidential customers. A utility shall also make the information available on its website. A utility shall transmit the publication to each new residential and small nonresidential customer

via the customer's preferred method upon the commencement of service and shall provide it at all times upon request. When substantial revisions to or new information required by the provisions of subrule (3) of this rule occur, the utility shall provide the changes to all current residential and small nonresidential customers by a bill insert, revised publication, or a periodical that is sent to all current residential and small nonresidential customers of the utility and to the commission. The form of this transmittal shall be at the discretion of the utility.

(3) The publication shall contain all of the following information:

- (a) Billing procedures and estimation standards.
 - (b) Methods for customers to verify billing accuracy and procedures to correct or change the customer's personal information associated with their account.
 - (c) Instructions on accessing customer data electronically and the information or data available through such access.
 - (d) An explanation of the power supply cost recovery or gas cost recovery procedures.
 - (e) Customer payment standards and procedures.
 - (f) Security deposit and guarantee standards.
 - (g) Shutoff and restoration of service procedures.
 - (h) Inquiry, service, and complaint procedures.
 - (i) Procedures for terminating service.
 - (j) Instructions on accessing the utility's data privacy tariff.
- (4) Each publication shall indicate conspicuously that the publication is provided pursuant to the rules of the commission.

R 460.149 Access to rules and rates.

Rule 49. (1) A utility, except for a rural electric cooperative, shall provide to each customer, within 60 days of commencing service, within 60 days after issuance of a new rate case order, and at least once each year, all of the following information with a copy to the commission:

- (a) A clear and concise explanation of all rates for which the customer may be eligible.
- (b) A notice that complete rate schedules are available upon request.
- (c) A notice of the availability of company assistance in determining the most appropriate rate if the customer is eligible to receive service under more than 1 rate.

(2) A rural electric cooperative shall provide to each customer, at least annually, all of the following information:

- (a) A notice that complete rate schedules are available upon request.
- (b) A notice that a clear and concise explanation of all rates for which the customer may be eligible is available upon request.
- (c) A notice of the availability of company assistance in determining the most appropriate rate if the customer is eligible to receive service under more than 1 rate.

(3) A utility, except for a rural electric cooperative, shall provide to each customer, within 60 days after the utility has filed a general rate case application with the commission, all of the following information:

- (a) A notice that the utility has requested that the commission change its rates.
- (b) A notice that copies of the utility's application are available for inspection at all offices of the utility and on the utility's website.

(c) A notice that an explanation of the proposed changes to the utility's rates is available from the utility upon request.

(4) A rural electric cooperative shall provide to each customer, within a reasonable time after it has filed a general rate case application or a times interest earned ratio ratemaking application, all of the following information:

(a) A notice that the cooperative has requested that the commission change its rates.

(b) A notice that copies of the cooperative's application are available for inspection at all offices of the cooperative.

(c) A notice that an explanation of the proposed changes to the cooperative's rates is available from the cooperative upon request.

(5) A utility, including a rural electric cooperative, shall provide the notice required by this rule either through a publication that is transmitted to each of its customers by a bill insert, or whatever transmission method is used to provide the customer's bill and on its website.

(6) Upon request, a utility shall assist the customer in selecting the most economical rate schedule based on information supplied by the customer; however, selection of the appropriate rate is the responsibility of the customer. Once the selection is made, the customer shall stay on that rate not less than 12 months unless the customer notifies the utility of permanent changes in the conditions of service that warrant a different rate schedule.

(7) A utility shall keep on file, at all offices of the utility, and shall provide public access to, all of the following documents:

(a) A copy of these rules.

(b) A copy of all other rules of the utility filed with the commission regarding customer service.

(c) Schedules of all residential rates and charges.

(d) Proposed rate schedules.

(e) Clear and concise explanations of both existing and proposed rate schedules.

(f) An explanation of its power supply cost recovery or gas cost recovery process.

(8) A utility shall post suitable signs in conspicuous locations at all bill payment offices that are operated by the utility or authorized agents calling attention to the fact that the rules, regulations, rate schedules, proposed rate schedules, explanations of rate schedules, and explanations of proposed rate schedules are on file and available for inspection.

Upon request, a utility shall provide a copy of these rules, explanations, or schedules to a customer without charge.

R 460.150 Complaint procedures.

Rule 50. (1) A utility shall establish complaint procedures, promptly and thoroughly investigate customer complaints, and, when possible, resolve all customer inquiries, service requests, and complaints and report the resolution of commission-referred complaints to the commission staff.

(2) The utility shall keep records of customer complaints that will enable the utility to review and analyze its procedures and actions. The records shall be available to the commission.

(3) After referral of a customer's complaint from the commission, a utility shall make reasonable attempts to contact the customer within 2 business days and shall develop and

report to the commission within 10 days after referral its plan for resolution of the complaint.

(4) A utility shall provide to customers who are not satisfied with the utility's resolution of a complaint or inquiry the toll-free telephone number and internet address of the commission.

(5) A utility shall obtain commission approval of any substantive changes in its procedures.

R 460.151 Reporting requirements.

Rule 51. A utility shall file with the commission quarterly reports that disclose all of the following:

- (a) The payment performance of its customers in relation to established due and payable periods.
- (b) The number and general description of all complaints registered with the utility.
- (c) The number of shut off notices issued by the utility and the reasons for the notices.
- (d) The number of hearings held by the utility, the types of disputes involved, and the number of complaint determinations issued.
- (e) The number of written settlement agreements entered into by the utility.
- (f) The number of shut offs of service and the number of reconnections.
- (g) Any other customer service quality information requested by the commission staff.

R 460.152 Inspection.

Rule 52. A utility shall permit authorized staff of the commission to inspect all of the utility's operations that relate to customer service.

R 460.153 Customer access to consumption data and confidentiality.

Rule 53. (1) A utility shall provide to each customer, upon request, a clear and concise statement of the customer's actual energy usage, or weather adjusted consumption data for each billing period during the last 12 months, or both. A utility shall notify its customers at least once each year by whatever method is used to transmit the customers' bills, that a customer may request energy usage, or weather-adjusted consumption data, or both.

(2) Each electric and natural gas utility shall file with the commission, for the commission's approval, a customer data privacy tariff that contains a customer data privacy policy. The privacy policy shall do all of the following:

- (a) Encompass all customer information or data collected or maintained by the utility.
- (b) Clearly define customer information or data that the utility collects or maintains.
- (c) Protect all customer information or data collected for the utility from unauthorized use or disclosure by the utility, its affiliates, or contractors.
- (d) Ensure that, for secondary purposes, customer usage data, personally identifiable information, and certain other customer information are only disclosed to third parties with the customer's written consent.
- (e) Specify that customer information may be disclosed without consent in response to a warrant or court order, as required for collection activities, or as necessary for primary purposes.
- (f) Permit a customer to share his or her information with a third party that is not affiliated with the utility. The utility may elect to insert language in the privacy policy

stating that the utility is not responsible, in this circumstance, for a third party's unauthorized disclosure or use of this information.

(g) Provide clear instructions regarding the method by which a customer and a third party, authorized by the customer, may obtain customer usage data in a timely manner and a readily accessible format from the utility.

(h) Indicate that the policy does not apply to aggregate data, containing general characteristics of a customer group, which is used for analysis, reporting, or program design purposes.

(3) The privacy policy shall be posted on the utility's website.

PART 10. DISPUTES, HEARINGS AND SETTLEMENTS

R 460.154 Disputed matters.

Rule 54. (1) If a customer advises a utility, or if the utility is notified by a regulation officer on behalf of a customer, before the date of the proposed shut off of service, that all or part of a bill is in dispute, then the utility shall do all of the following:

(a) Immediately record the date, time, and place the customer made the complaint and transmit verification to the customer.

(b) Investigate the dispute promptly and completely.

(c) Advise the customer of the results of the investigation.

(d) Attempt to resolve the dispute informally in a manner that is satisfactory to both parties.

(e) Provide the opportunity for the customer to settle the disputed claim or to satisfy any liability that is not in dispute.

(2) A customer may advise a utility that a matter is in dispute in any reasonable manner, such as by written notice, in person, by a telephone call directed to the utility, or through a regulation officer.

(3) A utility, in attempting to resolve the dispute, may employ telephone communication, personal meetings, on-site visits, or any other method that is reasonably conducive to obtaining a settlement.

(4) If the utility has resolved the matter in dispute but the customer remains dissatisfied, the utility shall inform the residential or small nonresidential customer of the right to request a customer hearing and the procedure for requesting the hearing. The utility shall also inform the customer that they contact the commission to file a complaint. Unless the customer takes action by either requesting a customer hearing or taking its dispute to the commission, the matter in dispute shall be considered closed.

R 460.155 Customer hearing and hearing officers for residential and small nonresidential customers.

Rule 55. (1) If the parties are unable to resolve the dispute, the utility shall offer the customer the opportunity for a customer hearing before a hearing officer selected from a list of hearing officers filed with the commission.

(2) If the customer requests a customer hearing with the utility or with the commission regulation officer, the utility shall place a hold on any action to shut off or suspend service until 1 of the following occurs:

- (a) The customer fails to complete his or her responsibilities required for a customer hearing.
- (b) The customer withdraws the request.
- (c) The utility and the customer settle the dispute.
- (d) The customer hearing officer issues a decision finding that shut off or suspension of service is appropriate.
- (3) The utility shall accept notification from a regulation officer of a customer's request for a customer hearing.
- (4) If the parties are unable to resolve the dispute, the utility shall offer the customer the opportunity for an informal hearing before a hearing officer selected from a list of hearing officers filed with the commission.
- (5) If the customer chooses to have a customer hearing, the customer shall do both of the following:
 - (a) Notify the utility within 5 business days of the utility's offer for a hearing.
 - (b) Pay the amount not in dispute, or if the utility and customer cannot agree, pay 50% of the disputed amount not to exceed \$100.00.
- (6) If the customer notifies the utility of the intent to pursue an informal hearing, then the utility shall do all of the following:
 - (a) Complete the necessary investigation.
 - (b) Schedule the hearing within 10 business days of the customer's request for a hearing.
 - (c) Hold the hearing within 45 business days of the customer's request for a hearing.
- (7) If the customer fails to pay the part of the bill that is determined under subrule (5)(b) of this rule within 15 business days of the date that the utility sends the hearing notice, the utility may exercise its right to shut off service pursuant to these rules.
- (8) A utility shall select hearing officers who meet all of the following requirements:
 - (a) They are on the list of hearing officers on file with the commission.
 - (b) They are notaries public who are qualified to administer oaths.
 - (c) They are not a past or present employee of the utility, and they are not engaged in or have not been engaged in any other activities that would cause bias or lack of objectivity.
 - (d) They comply with part 10 of these rules, R 460.154 to R 460.159.
- (9) In January of each year, utilities shall provide to the commission's executive secretary the name or names of selected hearing officers and update those lists as necessary. Upon notice to the commission, a hearing officer, other than those on the list, may be used subject to the requirements specified in subrule (8) of this rule. Upon request, utilities shall provide the resume of a hearing officer to the commission or any party participating in a customer hearing.
- (10) If the dispute is ultimately resolved, in whole or in part, in favor of the customer, the utility shall return promptly any excess amount paid by the customer, with interest at the rate specified pursuant to R 460.111(8).

R 460.156 Notice of hearing.

Rule 56. (1) On the day a utility schedules the hearing, the utility shall send or personally serve the customer with written notice of the time, date, and place of the hearing.

- (2) The notice shall describe the hearing procedures as specified in R 460.157.

(3) The notice shall specify the amount of required payment and the due date, which shall be 10 business days from the date the notice was sent to the customer.

R 460.157 Customer hearing procedures.

Rule 57. (1) A utility shall establish hearing procedures that ensure the impartiality and integrity of the hearing process and that provide the customer and the utility with all of the following rights:

(a) The right to represent themselves, to be represented by counsel, or to be assisted by persons of their choice.

(b) The right to examine, not less than 2 business days before the scheduled hearing, a list of all witnesses who will testify and all documents, records, files, account data, and similar material that may be relevant to the issues to be raised at the hearing.

(c) The right to present evidence, testimony, and oral and written arguments.

(d) The right to question witnesses who will be appearing on behalf of the other party.

(2) A hearing shall be held during normal business hours, except as otherwise agreed to by all parties. A utility shall take reasonable steps to ensure that a customer who is unable to attend the hearing due to physical incapacity is not denied the right to a hearing. Failure of the customer, or the utility, to attend the hearing without a good reason, or without having requested an adjournment, constitutes a waiver of the right of that party to the hearing.

(3) For the convenience of the parties, a hearing officer may conduct the hearing by telephone or other electronic media. In this case, all parties shall provide any documents to be introduced at the hearing to the other parties and the hearing officer at least 2 business days in advance of the hearing date.

(4) The utility has the burden of proof by a preponderance of the evidence.

(5) All witnesses who appear for either party shall testify under oath.

(6) A hearing shall be informal and the proceedings do not have to be recorded or transcribed. All relevant evidence shall be received and the formal rules of evidence shall not apply.

(7) For each hearing, the hearing officer shall compile a hearing record that includes all of the following:

(a) A concise statement, in writing, of the position of the utility.

(b) A concise statement, in writing, of the position of the customer. If the customer has not put his or her position in writing, then the hearing process shall provide a method for accomplishing this writing with the opportunity for proper acknowledgment by the customer.

(c) Copies of all evidence submitted by the parties.

(8) At the conclusion of the hearing, the hearing officer may orally state his or her findings and the decision; or, may adjourn the hearing and inform the parties that the decision will be transmitted to them within 10 business days. At the request of the customer, the hearing officer shall adjourn the hearing and transmit the decision to the parties within 10 business days of the conclusion of the hearing. In either case, the hearing officer shall issue a complaint determination in a form that is approved by the commission. The complaint determination shall contain both of the following:

(a) A concise summary of the evidence and arguments presented by the parties.

(b) The decision, and the reasons for the decision, based solely on the evidence received.

(9) At the conclusion of the hearing and again upon issuance of the complaint determination, the hearing officer shall advise the customer and the utility of all of the following:

(a) That each party has a right to appeal the decision to the commission staff, by mail, telephone, internet, fax, or in person, within 15 business days of issuance of the complaint determination.

(b) That, if appealed, the decision of the hearing officer, including a finding that service may be shut off, cannot be implemented until the commission staff completes a review.

(c) The address and telephone number where the customer or the utility may make an informal appeal to the commission staff.

(10) Before issuance of a complaint determination, the hearing officer may propose a settlement to the parties. If both parties accept the settlement, it shall be put in writing and both parties shall sign the settlement agreement.

(11) Within 10 business days of the conclusion of the hearing, the hearing officer shall serve the parties with all of the following:

(a) A copy of the complaint determination.

(b) Appeal information as provided in subrule (9) of this rule.

(c) If applicable, a copy of the signed settlement agreement as provided in subrule (10) of this rule.

(12) The complaint determination and a copy of the signed settlement agreement, if any, shall be made part of the hearing record. The hearing officer shall certify the hearing record.

(13) The complaint determination is binding upon the parties, unless appealed, as provided in R 460.160 to R 460.169.

(14) A utility's hearing procedures shall be subject to investigation and review by the commission.

R 460.158 Settlement agreement procedures for residential and small nonresidential customers.

Rule 58. (1) If the utility and the residential or small nonresidential customer arrive at a mutually satisfactory settlement of a matter in dispute, then the utility may offer the residential or small nonresidential customer the opportunity to enter into a settlement agreement, and the customer shall provide written documentation of approval.

(2) The utility shall confirm the terms of the settlement agreement with the residential or small nonresidential customer and shall provide documentation of the settlement to the customer or the customer's authorized representative. The utility shall retain documentation of the original settlement agreement for the term of the settlement agreement or 2 years, whichever is longer. In case of a dispute over the terms of a settlement agreement, the utility shall have the burden of proving that the residential or small nonresidential customer understood and accepted the terms of the settlement agreement.

(3) Services shall not be shut off if the residential or small nonresidential customer follows the terms of the settlement agreement.

(4) A settlement agreement that is offered by a utility shall state, immediately preceding the space provided for the residential or small nonresidential customer's signature and in bold print that is not less than 2 sizes larger than any other print that is used on the form: "IF YOU ARE NOT SATISFIED WITH THIS AGREEMENT, DO NOT SIGN. YOU MAY FILE A CUSTOMER COMPLAINT AND HAVE A HEARING BEFORE A HEARING OFFICER BEFORE YOUR SERVICE MAY BE SHUT OFF. IF YOU SIGN THIS AGREEMENT, YOU GIVE UP YOUR RIGHT TO A CUSTOMER HEARING BEFORE A HEARING OFFICER ON ANY MATTER INVOLVED IN THIS DISPUTE, EXCEPT THE UTILITY'S FAILURE OR REFUSAL TO FOLLOW THE TERMS OF THIS AGREEMENT."

R 460.159 Default of settlement agreement procedures for residential and small nonresidential customers.

Rule 59. (1) If a residential or small nonresidential customer fails to comply with the terms and conditions of a settlement agreement, the utility may shut off service after notifying the customer in writing, by personal service, or first-class mail of the following information:

(a) That the residential or small nonresidential customer is in default of the settlement agreement.

(b) The nature of the default.

(c) That unless the residential or small nonresidential customer pays in full the amount due within 10 business days of the date of mailing, the utility may shut off service.

(d) The date the utility may shut off service.

(e) That the residential or small nonresidential customer has a right to do either of the following:

(i) Request a hearing before a hearing officer selected from a list on file with the commission, but only if the customer alleges that the utility has failed or refused to follow the terms of the settlement agreement.

(ii) File a formal hearing request pursuant to the commission's rules of practice and procedure in R 792.10101 to R 792.11903.

(f) The address and telephone number where the residential or small nonresidential customer may file the request for a hearing with the utility or the commission.

(2) If the residential or small nonresidential customer and the utility reach a settlement agreement following a notice of shutoff, the failure of the residential or small nonresidential customer to abide by the terms of the settlement agreement during the first 60 days of the agreement constitutes a waiver of the notice required by subrule (1) of this rule. The utility may shut off service after notice as described in R 460.137.

PART 11. APPEAL PROCEDURES

R 460.160 Customer hearing appeal.

Rule 60. Within 15 business days after a hearing officer issues a written complaint determination, either party may make an informal appeal to the commission staff.

R 460.161 Filing procedures.

Rule 61. (1) A party may make a customer hearing appeal which does not have to be in writing but may be initiated by telephone, internet, mail, fax, or in person at the offices of the commission.

(2) The appealing party shall provide all of the following information:

- (a) Name and address of the customer.
- (b) Name of the utility involved.
- (c) The nature of the original complaint in a clear and concise manner.
- (d) The hearing officer's decision.
- (e) The relief requested.

R 460.162 Customer hearing appeal procedures.

Rule 62. (1) The commission staff shall assign the customer hearing appeal to a regulation officer who shall do all of the following:

(a) Advise the appealing party by telephone or in writing of the procedures of the commission.

(b) Advise the other party that a customer hearing appeal has been filed.

(c) Issue interim determinations as necessary and as provided in R 460.163.

(d) Review or investigate the appeal.

(e) Issue a customer hearing appeal decision.

(2) Upon notification by the commission staff that a customer hearing appeal has been made, the utility shall promptly file with the commission staff, the certified hearing record. The parties shall be bound by the evidence presented at the hearing and contained in the hearing record. In arriving at the customer hearing appeal decision, the regulation officer shall not be required to receive or consider any additional evidence or information.

(3) In all customer hearing appeals, the utility has the burden of proof by a preponderance of the evidence.

R 460.163 Interim determination.

Rule 63. (1) After receiving the hearing record and pending the final resolution of a customer hearing appeal, the regulation officer may issue an interim determination with appropriate terms and conditions. In the case of an appeal regarding a bill or deposit, the regulation officer may require a customer to pay the undisputed portion of a claim in order to continue the prohibition against the shut off of service. The regulation officer may consider the amounts that reasonably appear to reflect the cost of utility service in determining the undisputed portion of a claim.

(2) If a customer fails to abide by the terms and conditions of an interim determination within 10 days of the date of personal service or mailing of the interim determination by first-class mail, then the utility may shut off service as provided in R 460.137.

R 460.164 Appeal review.

Rule 64. The regulation officer shall thoroughly review the customer hearing appeal and, when necessary, conduct further investigation. A party may offer new evidence if the regulation officer determines that it is relevant. When further investigation is necessary, the regulation officer may request additional evidence or, at his or her own initiative, may hold a customer hearing appeal conference with the parties or their

representatives at a time and place designated by the officer. If either party fails to appear at the conference without a good reason or without having requested an adjournment, the right of the absent party to appear at the conference shall be waived. At the customer hearing appeal conference, the parties may do any of the following:

- (a) Represent themselves, be represented by counsel, or be assisted by other persons of their choice.
- (b) Offer oral and documentary evidence, which may be considered at the discretion of the regulation officer.
- (c) Refute, in a reasonable manner, the evidence of the other party.
- (d) Submit an oral or written statement of position.

R 460.165 Customer hearing appeal decision.

Rule 65. The regulation officer shall, within 30 days after the utility files the certified record, issue a written customer hearing appeal decision affirming, modifying, or reversing the customer hearing determination. In reversing or modifying the customer hearing determination, the decision shall set forth the terms and conditions for continued service, shut off, or a proposed settlement agreement as required by the facts and circumstances. The decision shall state the relevant findings of fact, the reasons for the decision, and remedies for failure to comply with the customer hearing appeal decision. A copy of the customer hearing appeal decision shall be served personally, or by first-class mail, on the parties.

R 460.166 Failure to comply with customer hearing appeal decision.

Rule 66. Failure of either party to comply with the decision within 10 days after the date that decision was served by mail shall permit implementation of the action or remedy provided by the decision.

R 460.167 Same dispute.

Rule 67. The commission staff may dismiss a subsequent informal appeal that involves the same question or issue based upon the same facts without following every procedure set forth in these rules.

R 460.168 Formal appeal.

Rule 68. Either party may appeal before the commission the decision of the regulation officer by filing a formal hearing request pursuant to the rules of practice and procedure before the commission in R 792.10101 to R 792.11903. If a formal hearing request is filed, the terms of the customer hearing appeal decision shall be held in abeyance unless otherwise ordered by the commission or the presiding officer who is assigned to the formal complaint.

R 460.169 Other remedies.

Rule 69. Nothing in these rules shall be construed to prevent a party at any time from pursuing appropriate legal and equitable remedies.